

Chapter 28 TRAFFIC AND MOTOR VEHICLES*

 *Editor's note--Ord. No. 183-97, passed Jan. 22, 1997, amended this chapter in its entirety, in effect repealing former Ch. 28, traffic and motor vehicles, and enacting similar new provisions in lieu thereof as herein set out. Formerly, Ch. 28 consisted of substantive §§ 28-1--28-6, 28-21, 28-31--28-37, 28-46--28-50, 28-61--28-67, 28-70, 28-71, 28-81--28-105, 28-116--28-134, 28-146--28-151, 28-161--28-163, 28-171--28-176, 28-191--28-199, 28-216--28-219, 28-231--28-243, 28-251--28-257, 28-271--28-280, 28-286--28-292, 28-301--28-303, and derived from §§ 701.1--701.19, 710.1--710.3, 711.1--711.27, 711.29, 711.30, 711.32--711.37, 711.39--711.86, 711.88--711.92, 714.1--714.15, 715.1, 715.3--715.6 of the 1968 Code as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
52-69	--	1- 6-89	53-79	--	2- 5-79
192-69	1	4-21-69	76-79	--	7- 2-79
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305-71	--	6-21-71	485-81	--	1-19-81
409-71	--	8-16-71	664-81	--	5-18-81
410-71	--	8-16-71	696-81	--	5-18-81
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645A-75	--	11-17-75	445-89	1, 2	6- 7-89
673-75	--	11-17-75	28-89	--	6-19-89
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76-76	1	2-18-76	108-89	--	9-18-89

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467-B-76	--	10-18-76	172-89	--	12- 4-89
194-77	1	3-21-77	57-90	--	8- 6-90
366-77	1	7- 6-77	163-90	--	12-10-90
633-77	1	10-17-77	210-91	--	1-23-91
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326-78	--	6- 5-78	263-92	--	4-22-92
318-78	--	6-19-78	281-93	--	5-17-93
374-78	1	7- 5-78	131-93	1	11- 1-93
478-78	11	8-21-78	278-94	1	4- 4-94
123-96	--	11- 4-96	155-96	1--4	12-16-96

Cross reference(s)--Ordinances prescribing specific parking restrictions, no parking zones, specific speed zones, parking meter zones, and specific stop or yield intersections or other traffic ordinances pertaining to specific streets saved from repeal, § 1-4(12); junked motor vehicles, § 12-76 et seq.; offenses, miscellaneous provisions, Ch. 17; trucks prohibited in parks, § 18-17; operation of motor vehicles in parks, § 18-19; operation of buses in parks, § 18-20; police, Ch. 20; streets, sidewalks and other public places, Ch. 25; protective measures and routing of traffic for excavations, § 25-119; vehicles for hire, Ch. 30.

State law reference(s)--Motor vehicles, 29 M.R.S.A. § 1 et seq. And 30-A M.R.S.A. § 3009

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ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them below. When a term is used in this chapter but not defined below, the definitions in 29-A M.R.S.A. § 101 and any amendments thereto shall be used.

Authorized emergency vehicle shall mean vehicles of the fire and police departments and such ambulances and emergency vehicles as are designated by state law or authorized by the city traffic engineer.

Business district shall mean the territory contiguous to and including a highway when fifty (50) percent or more of the frontage

thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

Compact area shall mean the compact or built-up portion of a municipality which is the territory contiguous to a way that is built up with structures situated less than one hundred fifty (150) feet apart for a distance of at least one-quarter of a mile. Municipal officers may designate a compact or built-up portion by appropriate signs.

Cross walk shall mean:

- (a) That portion of a roadway ordinarily included within the prolongation or continuation of the lateral lines of sidewalks at intersections. Where two (2) or more streets intersect and only some of the crosswalks at such intersection are marked for pedestrian traffic, the word crosswalk as used in this article shall include only such marked crosswalks at any such intersection.
- (b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver shall mean every person who drives or is in actual physical control of a motor vehicle.

Esplanade shall mean the city owned or controlled area between any sidewalk or sidewalk right-of-way and the roadway curbline.

Intersection shall mean the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) streets which join one another.

Motor vehicle shall mean any self-propelled vehicle, including a golf cart registered by the city for island use, not operated exclusively on tracks but does not include:

- (a) A snowmobile as defined herein;
- (b) An all-terrain vehicle as defined in article V; or
- (c) A motorized wheelchair.

Operate shall mean to operate, drive, or use a vehicle in any manner, whether or not the vehicle is moving.

Park or parking shall mean and include the stopping or standing of a vehicle, whether occupied or not and whether or not the motor is running.

Parking control officer shall mean a person duly authorized by the city manager to enforce the parking ordinances of the City of Portland, either as an employee or an employee of an independent contractor to the city.

Parking meter shall mean a device which shall indicate thereon the length of time during which a vehicle may be parked in a particular place, having as a part thereof a receptacle or chamber for receiving and storing coins of the United States money; a slot or place in which the coin may be deposited; and timing mechanism to indicate the passage of the interval of time during which parking is permissible with an appropriate signal to indicate when the aforesaid interval of time shall have elapsed; and brief instructions as to its operation. Parking meter as used herein shall also include a multi-space parking meter which may accept coins and other forms of payment such as debit and credit cards, and provide a timed receipt permitting parking in any multi-space or single space parking during such time.

Parking space shall mean any space adjacent to the curb or directly in front of or behind a single space parking meter for the parking of a single vehicle whether or not designated by painted lines or other durable markings. Parking space shall also include a space controlled by a multi-space meter.

Pedestrian shall mean any person on foot.

Personal assistive mobility device shall mean a mobility aid, such as a motorized wheelchair or scooter, that is used to enhance an individual's mobility.

Police officer shall mean every officer of the police department or any person authorized to make arrests for violations of traffic regulations.

Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner, and those having express or implied permission from the owner, but not

by other persons.

Prolonged parking shall mean parking, without moving the vehicle out of the space and making the space available for use by another person, at a meter or a designated parking space in excess of the maximum limit of parking designated for such space. Prolonged parking shall include, without limitation, "feeding the meter," so-called.

Publicly-owned property shall mean property owned by the city.

Railroad shall mean a carrier of persons or property upon cars operated upon stationary rails.

Railroad train shall mean steam engine, electric, or other motor with or without cars coupled thereto, operated upon rails.

Receipt shall mean the paper receipt dispensed from a multi-space meter showing the date purchased with the time during which it permits parking in a multi or single meter parking space.

Residence district shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with dwellings or dwellings and buildings in use for business.

Right-of-way shall mean the privilege of the immediate use of the roadway.

Roadway shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

Safety zone shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk shall mean that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines which is intended for the use of pedestrians.

Snowmobile shall mean any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow supported in part by skis, belts or cleats.

Standing shall mean any stopping of a vehicle, whether occupied or not and whether or not the motor is running.

Stop or stopping shall mean any halting or cessation of movement, even momentarily, of a vehicle, whether occupied or not, and whether the motor is running or not.

Street or highway shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Traffic shall mean pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any street for purposes of travel.

Traffic-control devices shall mean all signs, signals, markings and devices, whether immovable or whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, by which traffic is alternately directed to stop and proceed or for the purpose of regulating, warning or guiding traffic.

Traffic schedule shall mean the official listing of the streets of the city and the regulations pertaining to parking and traffic control, as amended from time to time by order of the city council or, when authorized, by the traffic engineer, and kept on file at the office of the city clerk.

Vehicle shall include all kinds of conveyances on ways for persons and for property, including special equipment, except those propelled or drawn by human power or used exclusively on tracks or snowmobiles or motorized wheelchairs.

(Ord. No. 183-97, 1-22-97; Ord. No.162-11/12, 5-7-12; Ord. No. 271-16/17, 6-19-2017)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

State law reference(s)--Similar definitions, 29, M.R.S.A. § 1.

Sec. 28-2. Required obedience.

(a) Except when otherwise directed by a police officer, parking control officer, or other authorized person, the driver of any vehicle and every pedestrian shall obey the instructions of any traffic-control device, signal, sign or marker, installed under the

provisions of this chapter or state law, and every such person shall obey each and every provision of this chapter.

(b) The provisions of this chapter shall apply in the use of streets and ways and in the use of publicly owned property to every pedestrian; to the driver of any vehicle, bicycle, snowmobile or all-terrain vehicle, including those owned by or used in the service of the United States Government, this state, county or city; and to every person propelling any pushcart, skateboard or roller skates, riding any animal or driving any animal-drawn vehicle, except such provisions which by their very nature can have no application and except as otherwise permitted by this chapter or by state statute or as directed by a police or parking control officer or other authorized person.

(Ord. No. 183-97, 1-22-97)

Sec. 28-3. Signs required.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. All signs required hereunder shall be no more than two hundred fifty (250) feet from one another when consecutive signage is required in an area. Whenever a particular section does not state that signs are required, such section shall be effective without signs being erected to give notice thereof.

(Ord. No. 183-97, 1-22-97)

Sec. 28-4. Unauthorized signs, signals or markings.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles a traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs, provided that such signs comply with chapter 14 of this Code.

(b) Every such prohibited sign, signal or marking is hereby

declared to be a public nuisance and the authority having jurisdiction over the street is hereby empowered to remove the same or cause it to be removed without notice, and without any liability whatsoever to the city.
(Ord. No. 183-97, 1-22-97)

- Sec. 28-5. Reserved.**
- Sec. 28-6. Reserved.**
- Sec. 28-7. Reserved.**
- Sec. 28-8. Reserved.**
- Sec. 28-9. Reserved.**
- Sec. 28-10. Reserved.**

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

*Cross reference(s)--Administration, Ch. 2.

DIVISION 1. GENERALLY

Sec. 28-11. True name to be given.

It shall be unlawful for any person when given a notice by any police, parking control officer, or other authorized person to appear to answer for an offense against any provision of this chapter to give other than his or her true name and true place of his or her residence or address, upon the request of such police, parking control officer, or other authorized person as identified in Sec. 28-12 below.
(Ord. No. 183-97, 1-22-97; Ord. No. 65-08/09, 9-15-08)

Sec. 28-12. Private security officers.

The police chief or his or her designee may authorize private security officers to enforce the parking regulations on specified city property, such as the Portland international jetport, and the Portland waterfront. Such private security officers shall have the authority to enforce the parking regulations at the specified locations, including without limitation the writing of parking tickets.
(Ord. No. 65-08/09, 9-15-08)

Sec. 28-13. Reserved.
Sec. 28-14. Reserved.
Sec. 28-15. Reserved.
Sec. 28-16. Reserved.
Sec. 28-17. Reserved.
Sec. 28-18. Reserved.
Sec. 28-19. Reserved.
Sec. 28-20. Reserved.

DIVISION 2. CITY TRAFFIC ENGINEER*

*Cross reference(s)--Administration, Ch. 2; officers and employees generally, § 2-16 et seq.

Sec. 28-21. Position created.

There is hereby created the position of city traffic engineer.
(Ord. No. 183-97, 1-22-97)

Sec. 28-22. Duties generally.

It shall be the duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinance of this city.
(Ord. No. 183-97, 1-22-97)

Sec. 28-23. Placement and maintenance of traffic devices.

(a) The city traffic engineer shall place and maintain traffic-control devices when and as required under this chapter to make effective the provisions of the chapter and may place and maintain such additional traffic-control devices as he or she may deem necessary to regulate traffic under this chapter or under state law or to guide or warn traffic.

(b) All traffic-control devices shall conform to the manual and specifications which may be approved by the Manual on Uniform Traffic Control Devices published by the U.S. Department of Transportation, 1995. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices.

(Ord. No. 183-97, 1-22-97)

Sec. 28-24. Regulatory powers.

In addition to any other authority granted under this Code, the city traffic engineer shall have authority to:

- (a) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he or she may deem necessary;
- (b) Establish safety zones of such kind and character and at such places as he or she may deem necessary for the protection of pedestrians;
- (c) Mark lanes for traffic on street pavements at such places as he or she may deem advisable, consistent with this chapter;
- (d) Designate a type of pennant to be displayed upon and to identify the vehicles in funeral processions;
- (e) Determine those intersections at which drivers of vehicles shall not make a right, left or "U" turn, and place proper signs at such intersections. Whenever the city traffic engineer shall issue a regulation prohibiting a right turn or a left turn at an intersection, he or she shall file a report of the regulation with the city clerk, who shall include it on the agenda of the next regular meeting of the city council. Such regulation shall take effect ten (10) days after the meeting of the city council at which the report is received and accepted, provided, however, that should the city council vote to table the report, such regulation shall not take effect until ten (10) days after the report is removed from the table and accepted;
- (f) Place markers, buttons or signs within or adjacent to

intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance;

(g)

- (1) Establish parking regulations and publish them in the traffic schedule, except the following actions require amendment of the traffic schedule by order of the city council:
 - i. Change of parking to "no parking any time" or "no parking any time" to parking;
 - ii. Change from time limit or metered parking to unregulated parking, or from unregulated or unmetered parking to time limit or metered parking; or
 - iii. Any change to Traffic circulation, such as changing a one-way street to a two-way street or a two-way street to a one-way street;
 - iv. City Council approval of amendments to the traffic schedule for the actions in i. and ii. above shall not be required for:
 - a. Amendments to the traffic schedule to change up to two (2) parking spaces per block face within a twelve (12) month period with review and approval by the traffic engineer and the city manager;
 - b. Amendments to the traffic schedule to implement pedestrian crossing or streetscape improvements (such as the installation of islands, curb extensions, striping, stop signs, transit stops etc.) after review and approval by the public works director or his or her designee; and
 - c. Amendments to the traffic schedule to change an on-street parking layout after review and approval by the Planning Board.

- (2) Whenever any time limit parking is imposed, and wherever a one-way street is established, the city traffic engineer shall erect appropriate signs or meters, as applicable, giving notice thereof, and no such regulations shall be effective until and unless such signs or meters are erected.
- (h) Declare any street or part thereof, a "play street" and to place appropriate signs or devices in the roadway indicating and helping to protect the same;
- (i) Determine the location of passenger zones and freight loading zones and place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this subsection are applicable;
- (j) Establish bus stops and stands for other passenger common carrier motor vehicles on such public streets, in such places and in such manner as he or she shall determine to be of the greatest benefit and convenience to the public, and every such bus stop or other stand shall be designated by appropriate signs;
- (k) Erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his or her opinion, interfere with traffic or create a hazardous situation;
- (l) Determine upon what streets angle parking shall be permitted and shall mark or sign such streets;
- (m) Erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet or upon one (1) side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

The width of the roadway shall be deemed not to exceed thirty (30) feet or twenty (20) feet, as hereinbefore set forth, if the usable width thereof is reduced to these measurements by the piling of snow by snowplowing operations.

In addition to the authority herein granted to the city traffic engineer, the chief of police or the fire chief is hereby authorized, whenever the width of the

roadway of any street is reduced by snow to the width as described above, to erect signs as provided above and is also authorized to make any street temporarily a one-way street when, in his or her judgment, the usable roadway of the street is reduced by snow to such width as to make such action advisable.

- (n) Determine and designate by proper emergency signs, streets or portions of streets on which no parking of vehicles may be permitted or on which no vehicular traffic may be permitted or on which vehicular traffic may move only in one (1) direction when, in his or her judgment or the judgment of the police or fire chief, an emergency exists or is about to exist because of snow, ice or other cause, which has created or will create an especially hazardous condition;
- (o) Determine and designate by proper signs distances not exceeding one hundred (100) feet at places where the stopping or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic;
- (p) Determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one (1) or more entrances to any such intersection, and erect a stop sign at every such place where a stop is required, or, in the event he or she determines that reduced speed rather than a stop is adequate for safe operation at any such intersection, he or she shall determine such safe speed by engineering investigation and erect signs upon the approaches to such intersection giving notice of such speed.

Every such stop sign shall bear the word "STOP" in letters not less than six (6) inches in height and shall be reflectorized or self-illuminated. Every stop sign shall be located as near as practicable at the property line of the street at the entrance to which the stop must be made or at the nearest line of the crosswalk or, if none, at a limit line to be indicated by the city traffic engineer.

- (q) Determine and designate intersections where traffic conditions require some type of traffic control but where

traffic volumes, both vehicular and pedestrian, and other factors indicate that neither traffic signals nor stop signs are warranted, and erect at every such place a sign stating "YIELD RIGHT-OF-WAY."

Every such yield right-of-way sign shall conform in design and color to specifications adopted by the state highway department. Every such sign shall be reflectorized to provide good visibility after dark.

- (r) Declare any street or part thereof to be for "No Through Traffic" and to place and maintain appropriate signs or devices in the roadway indicating and helping to restrict such street or part thereof for such purpose when in the opinion of the city traffic engineer there is a danger to pedestrians, drivers or other persons which warrants such declaration;
- (s) With the approval of the city manager, temporarily close a street or streets to through traffic for the purpose of the holding of a special event; provided, however, this paragraph shall not diminish the authority of the city council to control street vending pursuant to chapter 19 of this Code.
- (t) The city traffic engineer shall designate and post those one-way streets in the city on which snow plowing and snow removal vehicles may be moved against the regulated direction of traffic. Subject to the limitation below, the driver of an authorized snow plowing or snow removal vehicle may disregard regulations governing direction of movement of traffic on such designated one-way streets when plowing or removing snow under the authority of the city. Authorized snow plowing or snow removal vehicles shall include only vehicles designated by the public works authority as authorized for use in the city's snow plowing and snow removal operations, and such vehicles shall include a flashing signal light which shall be in continuous operation when such vehicle is moving against the regulated direction of traffic.
- (u) The city traffic engineer may establish and designate handicap parking spaces by appropriate signage, designating any applicable time limit thereon.
- (v) Notwithstanding anything herein to the contrary, from

April first through November thirtieth of each year, the traffic engineer is authorized to regulate time limit parking on either or both sides of the streets within all residential parking permit areas as defined pursuant to section 28-91 of this chapter and council orders # 289 (3/18/1991) and # 96 (9/8/1993). Said regulation shall be effective upon posting of signs designating such temporary limits by the traffic engineer.

(Ord. No. 183-97, 1-22-97; Ord. No. 175-01, 2-7-01; Ord. No. 60-07/08, 10-1-07; Ord. No. 13-16/17, 7-6-2016)

Sec. 28-25. Reserved.

Sec. 28-26. Trial or experimental regulations.

The city council may direct the city traffic engineer to place appropriate signs establishing temporary rules regulating traffic for purposes of trial or experiment. Such temporary rules shall become effective immediately upon the placing of such signs, and shall continue for a period of not more than ninety (90) days unless sooner terminated by direction to the city traffic engineer by the city council.

(Ord. No. 183-97, 1-22-97)

- Sec. 28-27. Reserved.**
- Sec. 28-28. Reserved.**
- Sec. 28-29. Reserved.**
- Sec. 28-30. Reserved.**
- Sec. 28-31. Reserved.**
- Sec. 28-32. Reserved.**
- Sec. 28-33. Reserved.**
- Sec. 28-34. Reserved.**
- Sec. 28-35. Reserved.**
- Sec. 28-36. Reserved.**
- Sec. 28-37. Reserved.**
- Sec. 28-38. Reserved.**
- Sec. 28-39. Reserved.**
- Sec. 28-40. Reserved.**

DIVISION 3. PARKING DIVISION

Sec. 28-41. Establishment.

The city manager may appoint a parking manager and sufficient

personnel to establish a parking division, who shall report directly to the city manager or his or her designee.
(Ord. No. 183-97, 1-22-97)

Sec. 28-42. Parking control officers.

The city manager or his or her designee is authorized to appoint parking control officers who shall have the same powers in the enforcement of parking regulations as are vested in members of the police department of the city and who may order into court any violator of parking regulations. Such parking control officers shall not be considered members of the police department and shall not be subject to the provisions of the civil service ordinance. Parking control officers shall be managed by and report to the parking manager.

(Ord. No. 183-97, 1-22-97)

Sec. 28-43. Duties generally.

The parking division shall enforce the stopping, standing and parking laws of this city; cooperate with the city traffic engineer, the police department and other officers of the city in the administration of stopping, standing and parking laws of the city and in developing ways and means to improve the traffic conditions; enforce the parking meter system of the city, including the collection of coins and payments therefrom; have the care, maintenance and control of municipal parking lots and garages; issue residential parking stickers; and perform such other duties related to parking conditions in the city as may be assigned by the city manager. Parking control officers shall have the authority to enforce the parking regulations of the city, including without limitation the writing of parking tickets.

(Ord. No. 183-97, 1-22-97; Ord. No. 162-11/12, 5-7-12)

Sec. 28-44. Handicapped parking; handicapped parking on private property.

The parking manager, upon approval of the city manager, is authorized to enter into agreements with owners of private off-street parking for the policing of stalls and spaces dedicated for handicapped persons' vehicles. Any vehicle parking in such a parking stall or space designated as a handicapped parking space, or in any other parking stall or space regulated by this chapter and designated as a handicapped parking space, that does not bear a special registration plate, placard or hang tag issued under M.R.S.A. Title 29-A, Section 521, or a similar plate, placard or

hang tag issued by another state, may be cited for the penalties specified in section 1-15 of this Code; provided, however, the minimum penalty shall be two hundred dollars (\$200.00) for each such violation.

(Ord. No. 183-97, 1-22-97; Ord. No. 81-03/04 10-20-03; Ord. No. 143-06/07, 2-5-07)

Sec. 28-45. Reserved.

Sec. 28-46. Reserved.

Sec. 28-47. Reserved.

Sec. 28-48. Reserved.

Sec. 28-49. Reserved.

Sec. 28-50. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING*

*State law reference(s)--Parking, 29 M.R.S.A. § 1111 et seq.

DIVISION 1. GENERALLY

Sec. 28-51. Traffic schedule.

The stopping, standing and/or parking of motor vehicles and movement of traffic are hereby regulated on the streets or parts of streets and ways and on publicly owned property as set forth on the traffic schedule and, when signs are erected giving notice thereof the stopping, standing and/or parking of motor vehicles and movement of traffic shall be regulated as set forth on the schedule for such streets or parts of streets and ways and on such publicly owned property. The traffic schedule shall be updated regularly by the city's traffic engineer and kept on file in the office of the city clerk. Amendments to the traffic schedule shall be made by the traffic engineer acting pursuant to his or her authority under this chapter or by order of the city council.

(Ord. No. 183-97, 1-22-97)

Editor's note--By separate order (Ord. No. 130-93, 10-18-93; and Ord. No. 141-97, 11-3-97; Ord. No. 242-02/03, 5-19-03 (effective 7-1-03); Ord. No. 143-06/07, 2-5-07) (effective 2-5-07); Ord. No. 217-06/07, 5-21-07 (effective 7-1-07), Ord. No. 209-09/10 (effective 7-1-10), Ord. No. 240-13/14, 5/19/14 (effective 7-1-14) and Ord. No. 233-18/19, 5/20/2019 (effective 7-1-2019), the City has established a schedule of waiver fees for parking violations as follows:

	<u>Violation</u>	<u>Waiver Fee</u>
1	Expired Meter or receipt/no receipt/receipt face down	\$20.00
C	Prolonged Parking-Feeding Meters	\$25.00
D	Overtime In Time Zone (Green Sign)	\$15.00
T	No Parking That Takes More Than One Metered Space	\$20.00
4	No Parking This Side Of Street	\$35.00
E	No Parking Zone	\$35.00
F	No Parking Between Signs	\$35.00
G	No Parking Here To Corner	\$35.00
H	No Parking Taxi Stand	\$35.00
J	No Parking Intersection	\$35.00
K	No Parking Sidewalk	\$35.00
L	No Parking / Dual Rear Wheels/ Overtime Commercial Vehicle Zone	\$40.00
M	No Parking Against Traffic Flow	\$35.00
N	Posted Emergency No Parking Zone	\$35.00
P	No Parking More than 18" from Curb	\$35.00
Q	No Stopping or Standing	\$35.00
R	No Parking City Lot or Property (Permit Required)	\$35.00
S	No Parking on Esplanade	\$35.00
8	No Parking Bus Stop	\$35.00
9	Blocking Driveway (On Complaint)	\$35.00
5	Double Parking or Obstructing Traffic	\$35.00
6	Parking in Hazardous Area -Fire Hydrant-Crosswalk	\$40.00
7	Snow Removal or Plowing Area	\$35.00
A	Parking in Disabled Zone	\$200.00
10	Displaying vehicle for sale	\$25.00
11	Washing, greasing or repairing such vehicle except for repairs necessitated by an emergency	\$25.00
12	Advertising purposes	\$25.00
13	Storage/abandoned vehicle (10 consecutive days)	\$25.00
14	Angle Parking Only	\$25.00
15	Parking a Vehicle 20' or more in Residential Area November-March	\$25.00
16	Camper, Trailer, boat, Etc. Over 24 hrs in any 7 calendar day period	\$25.00
17	Driver to Remain with Vehicle in Taxi Stand	\$25.00

***Editor's Note:** Permits are required to be properly displayed.

DIVISION 2. GENERAL PARKING REGULATIONS

Sec. 28-52. Parallel parking; exceptions.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction

of traffic, and with the curb-side wheels of the vehicle within eighteen (18) inches of the edge of the roadway, except upon those streets which have been marked or signed for angle parking, in which event vehicles shall be parked at the angle to the curb indicated by such mark or signs.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Parking, 29 M.R.S.A. § 1111 et seq.

Sec. 28-53. Stopping, standing or parking prohibited at specific locations.

No person shall stop, stand or park a vehicle in any of the following places, nor shall any person move a vehicle not owned by him or her into any of such places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, parking control officer, other authorized person or traffic-control device:

- (a) On a sidewalk or esplanade, provided, however, that persons authorized to operate pushcarts pursuant to article II of chapter 19 shall not be prohibited from stopping, standing or parking such pushcarts on sidewalks or esplanades in the course of business and in accordance with the provisions of and limitations imposed pursuant to article II of chapter 19; and provided further, that between the sidewalk and roadway on the Eastern Promenade between Atlantic Street and North Street, parking in a driveway shall be permitted during an emergency declared under section 28-97;
- (b) In front of or within five (5) feet of the intersection of the side lines of a public or private driveway with the nearest roadway edge of pavement;
- (c) Within an intersection or within twenty-five (25) feet of an intersection;
- (d) Within ten (10) feet of a fire hydrant, except to the extent authorized as a taxicab stand by the city traffic schedule and appropriate signage;
- (e) On a crosswalk or within twenty (20) feet of the center of any crosswalk;
- (f) More than eighteen (18) inches from the curb;

- (g) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic engineer indicates a different length by signs or markings;
- (i) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly signed;
- (j) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic or interfere with said excavation;
- (k) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or "double park," so-called;
- (l) At any place where official signs prohibit stopping or parking;
- (m) In front of a place of business for longer than one (1) hour between the hours of 9:00 a.m. and 5:00 p.m., except for Sundays and state and federally sanctioned holidays, unless a different regulation is provided by sign or by meter or by this chapter for such location.

(Ord. No. 183-97, 1-22-97; Ord. No. 275-97, 5-5-97)

Sec. 28-54. Overnight parking.

(a) No person shall park a vehicle on any street between designated nighttime hours, 12:01 AM - 7:00 A.M., as described in Traffic Schedule XXXA and XXXB; and on any street between designated daytime hours of 10:00 AM - 2:00PM, as described in Traffic Schedule XXXIA, when signs prohibiting same have been posted. Signs prohibiting such parking shall be posted upon the direction of the traffic engineer for reasons of narrowness, traffic hazard, snow removal or other reasons pertaining to the health, safety or welfare of the general public. Effective June 1, 2018, on streets posted pursuant to the provisions of subsection (a); the restriction shall be suspended from June 1 to September 30

of each calendar year, unless posted by emergency order. The streets within Traffic Schedule XXXA, Service Area 3, shall be excluded from the suspension.

(b) On streets not posted pursuant to the provisions of subsection (a), parking shall be unregulated unless posted by emergency order between the hours of 12:01 a.m. and 7:00 a.m. of any day.

(c) On streets where one (1) side only of an entire block is so posted against parking that the effect is to prohibit parking during the hours of 12:01 a.m. and 7:00 a.m. every day, the provisions of subsection (b) shall not apply to the side of the street directly opposite the side where parking is so prohibited, and parking shall be permitted on such opposite side of the street unless such parking is otherwise specifically prohibited.

(d) Nothing in this section shall be construed so as to permit any vehicle to be parked or to be left parked on any street or way so as to interfere with or hinder the removal or plowing of snow by the city, nor to permit the parking or leaving of a vehicle parked in violation of any other section of this Code including but not limited to declarations of emergency pursuant to section 28-24(15).

(e) Subsections (b) and (c) shall not apply on streets where the traffic engineer has placed signs stating that parking is prohibited between specified nighttime hours on specified days. (Ord. No. 183-97, 1-22-97; Ord. No. 109-17/18, 11-20-2017)

Sec. 28-55. Bus stops.

(a) The driver of any urban or interurban bus shall not stand or park in any business district at any place other than at a bus stop, except that this provision shall not prevent the driver of any such bus from temporarily stopping in accordance with other stopping or parking regulations at any place designated for the purpose of and while actually engaged in loading or unloading passengers.

(b) The driver of any other bus except those described in subsection (a) shall not stop or stand upon any street in any business district.

(c) No person shall stop, stand or park a vehicle other than a bus in a bus stop when any such stop has been officially

designated and appropriately signed.
(Ord. No. 183-97, 1-22-97)

Sec. 28-56. Passenger and loading zones.

(a) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger zone during the hours when the regulations applicable to such passenger zones are effective, and then only for a period not to exceed five (5) minutes.

(b) No person shall stop, stand or park a commercial vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a truck loading zone during the hours from 6:00 a.m. to 6:00 p.m. Use of a truck loading zone shall be limited to vehicles with commercial or combination plates from any state and in no case shall the stop for loading or unloading of materials exceed thirty (30) minutes without a special street occupancy permit from the city.

(Ord. No. 183-97, 1-22-97)

Sec. 28-57. Unlawful parking for certain purposes prohibited.

No person shall stop, stand or park a vehicle upon any street for the principal purpose of:

- (a) Displaying it for sale;
- (b) Washing, greasing or repairing such vehicle except for repairs necessitated by an emergency;
- (c) Advertising; or
- (d) Storage. "Storage," as used herein, shall mean parking a vehicle continuously upon any street in the same place for more than ten (10) consecutive days.

(Ord. No. 183-97, 1-22-97)

Sec. 28-58. Parking of trucks and certain other vehicles prohibited.

(a) No person shall stop, stand or park any motor vehicle which exceeds twenty (20) feet in length in any area zoned residential pursuant to the zoning ordinance on any public street,

public way, or publicly owned property, during the months of November through March.

(b) The above prohibition shall not apply when such vehicles are necessarily engaged in making deliveries, accepting or discharging passengers, loading or unloading cargo, or providing governmental, utility, emergency or other services to abutting properties. Furthermore, this section shall not apply to vehicles necessarily engaged in the construction, repair, or maintenance of public streets, public ways or publicly owned property.

(c) No person shall park any boat, camper, trailer, recreational vehicle, similar vehicle or any snowmobile on any street for more than twenty-four (24) hours in any seven-calendar-day period.
(Ord. No. 183-97, 1-22-97)

Sec. 28-59. Prima facie evidence of operation.

No person shall allow, permit, or suffer any vehicle registered in his or her name to stop, stand or park in any street, way, highway, roadway or parkway under the control of the city in violation of any provision of this Code. The fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.
(Ord. No. 183-97, 1-22-97)

Sec. 28-60. Reservation of powers.

Nothing contained herein shall be construed as prohibiting the city from providing for free parking space for loading and unloading, for taxicabs, bus stops, and for other purposes of similar nature.
(Ord. No. 183-97, 1-22-97)

- Sec. 28-61. Reserved.**
- Sec. 28-62. Reserved.**
- Sec. 28-63. Reserved.**
- Sec. 28-64. Reserved.**
- Sec. 28-65. Reserved.**
- Sec. 28-66. Reserved.**
- Sec. 28-67. Reserved.**
- Sec. 28-68. Reserved.**
- Sec. 28-69. Reserved.**

Sec. 28-70. Reserved.
Sec. 28-71. Reserved.
Sec. 28-72. Reserved.
Sec. 28-73. Reserved.
Sec. 28-74. Reserved.
Sec. 28-75. Reserved.
Sec. 28-76. Reserved.
Sec. 28-77. Reserved.
Sec. 28-78. Reserved.
Sec. 28-79. Reserved.
Sec. 28-80. Reserved.

DIVISION 3. PARKING METERS

Sec. 28-81. Designation of metered parking spaces.

The traffic engineer is hereby authorized and directed to designate such parking spaces as he or she deems proper along the streets as designated for either single space or multi-space meter parking in the traffic schedule, and in each such space only one (1) vehicle shall be parked at any one (1) time. Such vehicle shall be so parked as to be entirely within the limits of each parking space.

(Ord. No. 183-97, 1-22-97; Ord. No.162-11/12, 5-7-12)

Sec. 28-82. Installation of parking meters.

The parking manager is hereby authorized and directed to place, install and remove single space or multi-space parking meters upon the curb side of parking spaces as designated by the traffic engineer under the provisions of section 28-81.

(Ord. No. 183-97, 1-22-97; Ord. No.162-11/12, 5-7-12)

Sec. 28-83. Parking of vehicles in parking spaces; meter parking for those with disabilities.

(a) *Paid parking spaces.* Except as provided herein, when parking a vehicle in a paid parking space, a person may park only:

- (1) adjacent to the curb;

(2) within the limits of the parking space, where delineated by lines, parking meters, or other method; and

(3) where the person has paid the parking fee for the entire amount of time the vehicle is parked in that space by any method approved by the City Manager.

(b) Parking fees shall apply only from 9:00 a.m. to 6:00 p.m., Monday through Saturday, Sundays and state and federally sanctioned holidays excluded.

(c) *Disabled person parking at meter.* Any motor vehicle or motorcycle registered by a disabled person is exempt from any parking meter fare in a paid parking space when the vehicle properly displays special designating plates or a hangtag issued under state law, and may park a length of time that does not exceed twice the maximum time limit otherwise applicable in said space.

(Ord. No. 183-97, 1-22-97; Ord. No. 162-11/12, 5-7-12; Ord. No. 246-17/18, 6-18-2018)

Sec. 28-84. Violations.

It shall be unlawful for any person to:

(a) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any paid parking space without having paid the required parking fee by any method approved by the City Manager;

(b) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to remain in a parking space beyond the period of legal parking time established for such parking space as provided in the traffic schedule, or, except as provided in Section 19-26, to make any payment for the purpose of parking beyond the maximum legal parking time designated by the parking meter or multi-space meter ("prolonged parking" or "feeding the meter");

(c) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked across any line or marking of a parking space or in such position that the vehicle shall not be entirely within the limits of the parking space or such that the parked vehicle otherwise impedes or obstructs the flow of traffic; the minimum fine for a violation of this section shall be fifty dollars (\$50);

(d) Deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions herein;

(e) Deposit or cause to be deposited in any parking meter any slug, device, metallic substance or any other substitute for a coin of the United States;

(f) In the event of a violation of the provisions of subsections (a), (b), and (c) above, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. The fact that a vehicle is in a paid parking space when the time indicated on a meter, time stamped receipt, mobile application, or other mechanism used by the City to monitor paid parking times has expired shall also be prima facie evidence that the vehicle has been parked in the parking space longer than the lawfully permitted period; or

(g) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any parking space utilizing a disability registration plate or removable windshield placard which has been tampered with or improperly altered in any way. The minimum fine for a violation of this section shall be two hundred dollars (\$200).

(Ord. No. 183-97, 1-22-97; Ord. No. 80-03/04, 10-20-03; Ord. No. 162-11/12, 5-7-12; Ord. No. 54-13/14, 10-7-13; Ord. No. 83-13/14, 11-4-13; Ord. No. 246-17/18, 6-18-2018)

Sec. 28-85. Report of violation.

(a) It shall be the duty of the police officers of the city, and the parking control officers of the city, to report:

- (1) The state and registration number of such vehicle;
- (2) The time, date and street when such vehicle was found parked in violation of any of the provisions of this chapter;
- (3) Any other facts, such as the number of a single space parking meter, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(b) Each such officer or person shall also attach to such

vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of the provisions of this chapter. (Ord. No. 183-97, 1-22-97; Ord. No. 162-11/12, 5-7-12)

Sec. 28-86. Parking meter rates.

The rate for parking at a meter in the city shall be two dollars (\$2.00) per hour as follows: one and one-half (1.5) minutes for the first nickel (\$0.05); three (3) minutes for a dime (\$0.10); and seven and one-half (7.5) minutes for a quarter. The City Manager may charge a convenience fee in addition to the parking meter rates.

(Ord. No. 183-97, 1-22-97; Ord. No. 225-06/07, 5-21-07; Ord. No. 266-08/09, 7-1-09; Ord. No. 162-11/12, 5-7-12; Ord. No. 245-16/17, 5-15-2017, Effective 7-1-2017; Ord. No. 217-17/18, 7-1-2018; Ord. No. 246-17/18, 6-18-2018; Ord. No. 244-18/19, 5-20-2019; Ord. No. 79-20/21, 9-21-2020)

Sec. 28-87. Reserved.

Sec. 28-88. Reserved.

Sec. 28-89. Reserved.

Sec. 28-90. Reserved.

DIVISION 4. RESIDENTIAL AND BUSINESS-PEDESTRIAN PARKING PROGRAMS

Sec. 28-91. Residential parking permits.

(a) Annual permit stickers, hereinafter "permits," may be issued to Portland residents for parking in excess of one-hour and two-hour limitations on public streets in residential areas, as defined by order of the city council, when parked within the defined residential parking district for which the permit is issued. All other parking regulations of the city apply, including without limitation parking meters.

(b) As used in this section, the following terms shall have the meanings ascribed to them:

- (1) *Resident* means a person who has declared or established residency in the city or has been domiciled in this city for a period of at least thirty (30) days.
- (2) *Residential area* means a contiguous or nearly contiguous area containing public streets and highways or parts thereof where residents dwell;

- (3) *Resident motor vehicle* shall mean a registered motor vehicle owned or leased by a resident of the residential permit parking area and bearing a valid parking permit issued pursuant to this section. For purposes of this division, "lease" includes permanent assignment of a company vehicle to a resident, which vehicle is principally garaged at that person's residence.
- (4) *Residential permit parking zone* shall mean a residential area designated as such by order of the city council.

(c) A residential area shall be deemed eligible for residential parking if the city council determines that parking therein is impacted by commuter vehicles. In determining whether an area identified as eligible for residential permit parking shall be designated as a residential permit parking zone, the city council shall take into consideration the following factors:

- (1) The extent of the desire and need of the residents for residential permit parking and their willingness to bear the administrative cost in connection therewith;
 - (2) Proximity of the neighborhood to major "parking attractors" including employment centers, retail stores, restaurants, universities, hospitals and tourist attractions;
 - (3) Proximity of the neighborhood to transit service;
 - (4) Scarcity of convenient off-street parking for residents;
 - (5) The extent to which motor vehicles registered to persons residing in the residential area cannot be accommodated by the number of available off-street parking spaces;
 - (6) Substantial use of neighborhood curb space by commuters and other nonresidents for parking;
 - (7) Traffic, noise and safety problems caused by vehicles cruising for parking.
- (d) Permits shall be issued in the following manner:
- (1) *Eligibility for permit.* A person is eligible to apply for a residential parking permit if he or she owns or leases a motor vehicle and resides on property within or

immediately adjacent to a street, avenue or other location on which the residential parking provisions of this section are applicable.

(2) *Residency; application for permit.*

- a. *Residency.* Proof of residence in the residential parking zone in a form reasonably satisfactory to the parking manager or his or her designee must be presented at the time application is made. All residents must comply with applicable state registration and operator license requirements in Title 29-A, Section 101 et seq. in order to be eligible for a resident parking permit.
- b. *Application.* The application for the permit shall contain the name of the owner or lessee of the motor vehicle; residential address; the make, model, and plate number of the motor vehicle; and the number and state of the driver's license of the applicant.
- c. *Documents presented with application.* The following documents must be presented with the permit application:
 - (i) Vehicle registration, and, if applicable, the rental agreement for the vehicle or a letter from a company official on company letterhead indicating a vehicle has been permanently assigned to the applicant and is principally garaged at the applicant's residence; and
 - (ii) A valid State of Maine driver's license showing applicant's address as being within the zone; or if no such license, a current student identification from a school located in Portland, or military identification, and their current driver's license; or a driver's license from another state, proof of residential property ownership within the zone to which the permit will apply and an affidavit, signed under oath, stating that the applicant will be residing within the zone for a period of at least five months and the address of the applicant's principal residence

in another state; and

(iii) Proof of current residency within the zone.

No permit shall be issued for any vehicle which has one (1) or more notices of violation of any parking regulation or regulations made pursuant to this chapter issued after January 1, 1978, for which there has been neither payment of waiver fees or issuance of court process, until such time as all waiver fees have been paid or court process issued with respect to said notices of violation.

An applicant for a permit based on five month residency shall pay an annual fee of \$50 for the permit.

- (3) *Permit stickers.* A permit shall be issued for a designated residential permit parking zone only after approval of the permit application by the parking manager or his or her designee. Annual permit stickers shall be issued from July 1 - June 30 and may contain such information as the parking manager may determine to be necessary from time to time, including without limitation the zone number if more than one (1) residential parking zone has been established pursuant to this section. Permit stickers must be displayed upon the lower center of the rear window.
- (4) *Replacement stickers.* Replacement stickers shall be issued only on proof of disposition or return of the old sticker.
- (5) *Renewal.* Permits may be renewed annually. Renewal of any permit or issuance of a new permit is to be treated as if an original issuance.

(e) The city council, by order, may authorize the establishment of residential parking permit programs applicable to specifically designated residential permit parking zones, with regulations as to the number of permits to be issued, the manner of issuance of the permits, the temporary or permanent nature of the program in the designated parking zone and such other conditions which are not in conflict with this section.

- (f) A residential parking permit shall not authorize the

holder thereof to park a motor vehicle in such places or during such times as parking of motor vehicles is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulations other than a one (1) hour or two (2) hour parking limit within the residential permit parking zone.

(g) No person shall furnish any false information to the city in connection with the obtaining of any permit authorized hereunder. Any permit issued upon such false information or attached to a different vehicle shall be null and void. No person shall sell, lend or otherwise transfer any permit and any permit attempted to be so sold, lent or transferred shall become null and void. Any sticker attached to a vehicle which is sold or transferred to a new owner or lessee shall be removed from such vehicle prior to such sale or transfer.

(Ord. No. 183-97, 1-22-97; Ord. No. 48-02/03, 9-18-02)

***Editor's Note**—Section 28-92 was repealed in its entirety pursuant to Council Order 226A-09/10 passed on May 17, 2010.

Sec. 28-92. Reserved.

Sec. 28-93. Bayside student parking permits.

(a) *Bayside Student Parking District*: Parking permits may be issued to full time students at Portland High School for use in the Bayside Student Parking District. Such permits will permit parking in excess of the one-hour and two-hour limits established by this Code within the Bayside Student Parking District on days when Portland High School is in session. All other parking regulations of the City, including, but not limited to, parking meter regulations, will remain in effect in the Bayside Student District.

(b) *Definitions*: As used in this section, the following words will have the meanings ascribed to them below:

(1) *Bayside Student Parking District* means and includes the area described below:

- North and South sides of Lancaster Street (Chestnut Street to Pearl Street)
- East and West sides of Chestnut Street (Oxford Street to Lancaster Street)

- East side of Cedar Street (Oxford Street to Lancaster Street)
- North and South sides of Oxford Street (Elm Street to Stone Street)

- (2) *Full-time student at Portland High School* means a student attending Portland High School who is deemed to be eligible for a permit by the principal or his/her designee.
- (3) *Parking Manager* means the person appointed by the City Manager, pursuant to §28-41, to supervise the Parking Division.

(c) *Designation of District*: The City Council will designate the Bayside Student Parking District, taking into account:

- (1) the need for safe parking near Portland High School for its students;
- (2) the need of the Bayside Community and its willingness to support the District;
- (3) traffic, noise, and safety problems caused by vehicles cruising for parking;
- (4) the scarcity of convenient off-street parking for students at Portland High School; and
- (5) the enhancement of pedestrian safety in the District.

(d) *Application for permit*:

- (1) *Application*. The application for the permit shall contain the name of the owner or lessee of the motor vehicle; residential address; the make, model, and plate number of the motor vehicle; and the number and state of the driver's license of the applicant.
- (2) *Documents presented with application*. The following documents must be presented with the permit application.
 - a. Vehicle registration, and, if applicable, the rental agreement for the vehicle or a letter from a company official on company letter head indicating

a vehicle has been permanently assigned to the applicant; and

- b. A valid State of Maine driver's license showing applicant's address; and
- c. evidence of the applicant's status as a full-time student at Portland High School.

(e) *Revocation:* The Parking Manager may revoke a permit issued to any vehicle which has one (1) or more notices of violation of any parking regulation or regulations made pursuant to this chapter, issued after January 1, 1978, for which there has been neither payment of waiver fees nor issuance of court process, until such time as all waiver fees have been paid or court process issued with respect to said notices of violations.

(f) *Issuance of sticker:* The Principal of Portland High School or his/her designee will issue a permit for student parking within the Bayside Student Parking District in accordance with these regulations. Such stickers will be issued for the period from September 1 to June 30, of each year, and will contain such information as the Parking Manager determines to be appropriate. Permit stickers must be displayed upon the lower center of the rear window.

(g) *Replacement stickers:* Replacement stickers will be issued only on proof of disposition or return of the old sticker.

(h) *Renewal:* Permits may be renewed annually. Renewal of any permit or issuance of a new permit will be treated as an original issuance.

(i) *Authority of City Council:* The City Council, by order, may promulgate regulations as to the number of permits to be issued, the manner of issuance of the permits, the temporary or permanent nature of the program in the designated parking district and such other conditions which are not in conflict with this section.

(j) *Limited Authorization:* A Bayside parking permit does not authorize the holder thereof to park a motor vehicle in such places or during such times as parking of motor vehicles is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulations other than a one (1) hour or two (2) hour parking limit within the residential permit

parking zone.

(k) *No transfer:* No person shall furnish any false information either to the city or to the principal in connection with the obtaining of any permit authorized hereunder. Any permit issued upon such false information or attached to a different vehicle shall be null and void. No person shall sell, lend or otherwise transfer any permit. Any permit sold, lent or transferred will be null and void. Any sticker attached to a vehicle which is sold or transferred to a new owner or lessee shall be removed from such vehicle prior to such a sale or transfer.
(Ord. No. 17-01/02, 8-20-01)

Sec. 28-94. Reserved

DIVISION 5. SNOW REMOVAL; PARKING BANS

Sec. 28-95. Obstruction to traffic because of lack of snow treads or chains.

It shall be unlawful for any person to cause an obstruction to traffic by reason of inability to move a vehicle being operated by him or her because of snow or ice accumulation in a street when such vehicle has not been equipped with either snow tread tires, all-weather radials or tire chains.
(Ord. No. 183-97, 1-22-97)

Sec. 28-96. Interference with snow removal.

No vehicle shall be parked at any time on any public street or way so as to interfere with or hinder the removal of snow from the street or way by the city by plowing, loading and hauling, and any person parking a vehicle in violation of a no parking sign placed on any street or way because of snow plowing, loading or hauling operations shall be guilty of an offense. Notwithstanding the imposition of a fine, the chief of police or his or her designee may also cause any vehicle so parked on any street or way so as to interfere with or hinder the removal of snow by plowing, loading or hauling to be removed from such street in accordance with the provisions of this chapter.
(Ord. No. 183-97, 1-22-97)

Sec. 28-97. Declaration of emergency parking ban.

The city manager, or his or her designee, may declare an

emergency parking ban. The declaration of an emergency parking ban may be made applicable to all city streets or only to certain streets or streets within a defined perimeter. Such a declaration of emergency shall be for the purpose of plowing or removing snow or ice which has accumulated, or for other good cause stated in the declaration of the parking ban. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefor. The declaration shall be made no less than six (6) hours prior to the starting time of the ban. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct. Notwithstanding the declaration of a ban on parking for the plowing or removal of snow or ice accumulations, such a declaration shall not be applicable to any location free of all snow and ice from one (1) curb to the opposite curb for an entire block.

(Ord. No. 183-97, 1-22-97)

Sec. 28-98. Violation of emergency parking ban.

It shall be unlawful for any vehicle to be or remain parked on any street, including any unaccepted street, subject to a declaration of emergency no parking under section 28-97 during the effective time of such declared emergency.

(Ord. No. 183-97, 1-22-97, Ord. No. 109-03/04, 12-3-03)

Sec. 28-99. Reserved.

Sec. 28-100. Reserved.

DIVISION 6. TOWING AND IMMOBILIZATION OF VEHICLES

Sec. 28-101. Applicability.

(a) *In general.* Any vehicle of any kind or description parked upon a public street of the city at any place, in any manner, or for any length of time prohibited by this Code, or during any emergency parking ban declared by the city manager as provided in this chapter, may be removed by, or under the direction of or at the request of, any police officer of the city to a garage, storage place, or to city property within the limits of the city or within a radius of five (5) miles from Portland City Hall and impounded therein until the towing and storage fees established by article IV of this chapter are paid, and, until the requirements of this division are met. Such police officer may use such force as may be necessary to enter the vehicle and cause the same to be placed in a condition to be moved and may summon a licensed tow operator

pursuant to the provisions of article IV of this chapter for such purpose.

(b) *Scofflaw*. Any vehicle which has accumulated three (3) or more notices of violation of any parking regulation or regulations made pursuant to this chapter for which there has been neither payment of waiver fees nor issuance of court process and which is then parked in violation of any such provision may, at the option of any city police, parking control or other officer authorized to enforce the parking regulations of the city, be immobilized in place or may be removed and stored pursuant to the provisions of this chapter until all waiver fees established pursuant to 30-A M.R.S.A. § 3009 for all such outstanding notices of violations and also the charges authorized by article IV have been paid or until the requirements of section 28-103(b) or (c) have been met. If impoundment by immobilization is utilized, a charge of fifty dollars (\$50.00) shall be charged and paid prior to such release. (Ord. No. 183-97, 1-22-97; Ord. No. 6-16-05; Ord. No. 97-06/08, 11-20-06)

Sec. 28-102. Procedure for removal; notice to owner.

(a) The police or parking control or other officer requesting removal of a vehicle under this article shall at the time of such removal notify the dispatcher of the intended storage location of the subject motor vehicle. Such information shall be recorded by the dispatcher for the use of the chief of police or director of finance.

(b) The owner of a vehicle shall be notified of its removal in accordance with the provisions of article IV of this chapter.

(c) The owner of such removed vehicle may obtain its release in accordance with the provisions therefor in this article and article IV of this chapter.
(Ord. No. 183-97, 1-22-97)

Sec. 28-103. Release of vehicles.

Any person having custody of a motor vehicle pursuant to the provisions of this chapter or having the means to release such immobilized vehicle shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefor, and:

(a) The director of finance or the chief of police certify that all waiver fees and all charges described in this

chapter have been paid, including all costs for immobilization or for towing, notice preservation, and storage of the vehicle as established pursuant to article IV; or

- (b) Until the director of finance shall certify the posting of a bond equal to the total waiver fees which should have been remitted for the overdue notices of violations and other charges set forth in subsection (1) hereinabove; or
- (c) Upon certification of the chief of police or his or her designee that such person has both demonstrated that he or she is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status, and accepted service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violations of this chapter and such person pays all charges set forth in subsection (a) above, other than the waiver fees.

(Ord. No. 183-97, 1-22-97)

Sec. 28-104. Bond.

Whenever any person requests the right to post bond pursuant to section 28-103(b), such bond shall be given in cash and a receipt given therefor. Such bond money shall be refunded in the amount of the waiver fee for each alleged violation of this chapter upon acceptance by such person of service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violation of this chapter. Any bond shall be forfeited unless the person posting it requests and accepts service of such process from the chief of police within thirty (30) days of posting unless prevented from so doing by the actions or inaction of the city.

(Ord. No. 183-97, 1-22-97)

Sec. 28-105. Refund of charges for impoundment.

(a) Whenever any person obtains a determination from a court of competent jurisdiction that the vehicle was not parked in violation of this chapter at the time it was impounded pursuant to this division, such person shall be reimbursed for the charges for immobilization, or for towing and storage pursuant to article IV of this chapter if paid, and if such charges have not then been paid they shall be promptly paid or canceled by the city.

(b) The city manager, or a person designated by him or her to hear complaints, shall order a refund of towing and storage fees to any owner of a vehicle which is removed solely by reason of declared snow emergency, where it is determined that the vehicle was towed less than six (6) hours after declaration of the emergency snow ban by the city manager. Liability of the city shall be limited to refund of towing and storage charges.

(c) Except as otherwise provided in paragraphs (a) and (b) above, the city shall have no liability for damage that may be caused for removal of a vehicle or for any towing or storage charges.

(Ord. No. 183-97, 1-22-97)

Sec. 28-106. Interference with enforcement.

It shall be unlawful for any person to tamper with or to attempt to remove any immobilizing device attached to a vehicle or to obstruct or attempt to prevent the removal of a vehicle as provided in this division.

(Ord. No. 183-97, 1-22-97)

Sec. 28-107. Reserved.

Sec. 28-108. Reserved.

Sec. 28-109. Reserved.

Sec. 28-110. Reserved.

DIVISION 7. TAXICAB STANDS

Sec. 28-111. Established.

Taxicab stands for the parking of taxicabs shall be located in the city as designated by order of the city council on the city's traffic schedule.

(Ord. No. 183-97, 1-22-97)

Sec. 28-112. Permit to use.

Any person seeking the privilege of using any taxicab stand shall make application in writing to the Chapter 30 Licensing Authority, and the Chapter 30 Licensing Authority shall grant such permits as it approves.

(Ord. No. 183-97, 1-22-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-113. Drivers to remain in vehicle.

Drivers of taxicabs or public vehicles shall remain in the driver's seat while the vehicle is occupying a taxicab stand, except while assisting a passenger to enter or exit the vehicle or to load or unload a passenger's baggage.

(Ord. No. 183-97, 1-22-97)

Sec. 28-114. Reserved.

Sec. 28-115. Reserved.

Sec. 28-116. Reserved.

Sec. 28-117. Reserved.

Sec. 28-118. Reserved.

Sec. 28-119. Reserved.

Sec. 28-120. Reserved.

ARTICLE IV. LICENSING OF TOW OPERATORS

***Editor's note--**The schedule of tow fees is set by the City in Order 108-17/18, November 20, 2017 as follows:

ORDERED, that the schedule of maximum rates permitted to be charged vehicle owners by wreckers for specified services listed below adopted pursuant to Chapter 28, Sections 275 and 303 (**NOTE:** now Section 125) of the Portland City Code, and by Council Order 30-88/89, dated June 7, 1989 and amended on May 16, 1994, January 19, 2000, Order 155-04/05, February 2, 2005, Order 161-07/08, March 3, 2008, and by Order 14-13/14 on July 15, 2013 is hereby replaced and amended as follows:

1. Towing of Vehicles or All-Terrain Vehicles

\$100.00 per non-accident tow.

\$125.00 per accident tow.

\$105.00 for any vehicle with dual tires on the rear axle.

When a vehicle is off-road, submerged, rolled over or otherwise requires special equipment for retrieval before it can be towed, a charge of \$80 may be assessed in addition to the towing fee. If the recovery takes longer than one hour, a rate of \$80 per hour after the first hour may be charged.

2. Once a wrecker has hooked a vehicle to the wrecker, a vehicle owner may take possession of his vehicle if the wrecker has not started to leave the scene with the vehicle and if the owner pays a \$30.00 fee in cash to the wrecker driver. Upon such payment, the wrecker shall release the vehicle. No towing fee shall be charged if the owner arrives to move his vehicle prior to the wrecker hooking up to the vehicle. In the case of a police-requested tow and to the extent possible,

the wrecker shall not lose its place in rotation on the police towing list if the tow is either cancelled or if the owner retrieves his vehicle prior to tow under this subsection. "Hooked or hooked up" for purposes of this subsection means that the wrecker has attached the vehicle to the wrecker by chains or by hook, or some other similar physical connection that must be detached before the vehicle can move, regardless of whether it has been lifted or moved. "Starts to leave the scene" means that the vehicle is fully attached for towing and the wrecker has begun to move from the scene.

When a vehicle is shoveled out by a tow operator in order to hook it up during a snow ban or for a snow removal conducted by or for the City, and a City employee engaged or participating in the snow removal process determines that the shoveling was reasonable and necessary to accomplish a hook up, the fee shall be \$25 regardless of whether the vehicle is hooked up when the vehicle owner arrives at the scene. In cases where the vehicle is shoveled out and hooked up the total fee to release the vehicles shall be \$30.00.

3. Storage of vehicles: \$30.00 per day or part thereof. Storage charges shall begin twenty-four hours after the vehicle is towed.
4. The charge by the City for vehicles impounded or stored on City property pursuant to Chapter 28 shall be \$25.00 for impoundment and storage for the first twenty-four hours from the date and time of impoundment, and shall be \$10.00 for each day, or part thereof, thereafter.
5. Wrecker owners may charge a \$30.00 release fee for vehicles released from storage after 7:00 p.m. and prior to 7:00 a.m. seven days a week and from 7:00 a.m. to 7:00 p.m. on Sundays or on official City holidays.
6. The Chief of police or his or her designee may authorize additional charges in unusual circumstances.
7. If a vehicle must be towed after the initial tow, wrecker owners may charge a \$100.00 fee for each additional tow of the same vehicle performed at the City's request.
8. When a vehicle and trailer or two vehicles are towed at the same time the tow fee shall be \$130.

BE IT FURTHER ORDERED, that the above provisions apply to any tow of a vehicle without the owner's consent, including but not limited to private lot tows requested by a lot owner or manager, and to police requested tows of private vehicles, including but not limited to abandoned vehicle tows, snow tows, scofflaw tows and accident scene tows.

DIVISION 1. GENERALLY

Sec. 28-121. Purpose.

In order to protect the safety of persons who operate motor vehicles within the corporate limits of the city, to ensure that the streets and public ways of the city remain open and free of hazard to the public and to further effectuate the efficient enforcement of the city's traffic, parking, snow removal and other regulatory ordinances, it is determined necessary to ensure by licensing the regulation of persons engaged in the business of providing vehicle wrecker or towing and required repair services, to establish rates for such service to the extent permitted by law, to regulate the storage and disposition of vehicles so towed, and to set fees and penalties for the enforcement thereof.
(Ord. No. 183-97, 1-22-97)

Sec. 28-122. Definitions.

The following words and terms as used in this article shall have the common meanings ascribed thereto, except that the definitions set forth in chapter 15 or in this section shall apply, unless the context clearly indicates a different meaning:

Towing list means a list or lists maintained by the police department containing the names of those wreckers licensed by the city to respond to requests for the towing of vehicles made by the police department.

Wrecker means a person engaged in the business of, or offering the services of, a vehicle wrecker or towing service, whereby motor vehicles are or may be towed or otherwise removed from one (1) place to another by the use of a motor vehicle adapted to and designed for that purpose.
(Ord. No. 183-97, 1-22-97)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 28-123. Minimum continuous regulations.

The following minimum regulations will be met on a continuous basis by all licensees:

- (a) Licensees shall operate and maintain storage and release

facilities within the city, or within a radius of five (5) miles from Portland City Hall, as may be necessary for safe and proper conduct of towing activities.

- (b) Licensees shall permit the chief of police to conduct one (1) regular and two (2) random inspections of each towing vehicle during the term of the license.
- (c) Licensees shall permit the chief of police to conduct one (1) regular and two (2) random inspections of each storage and release areas during the term of the license.
- (d) Licensees shall maintain such records as required by regulations promulgated by the chief of police pursuant to section 28-124 and shall permit their inspection by the chief or his or her designee during normal business hours.
- (e) Vehicles must be towed, not driven, to storage lots.
- (f) Licensees must provide a secure storage area in accordance with regulations promulgated in accordance with section 28-124.
- (g) No vehicle shall be towed to a lot outside of the city unless pursuant to subsection (1) of this section or unless it has been unclaimed for thirty (30) days and only upon the prior written notice to the police chief or his or her designee.
- (h) The police chief or his or her designee must be notified of any unclaimed vehicle by electronically reporting the relevant information from the invoice or tow slip for any unclaimed vehicle once a week to the police chief or his or her designee. Said information shall be electronically reported by Tuesday each week and shall include information for each vehicle in licensee's possession that remains unclaimed on the last day of the preceding week.
- (i) Licensees shall clean the accident area of all nonhazardous vehicular debris resulting from the accident, if there be any.
- (j) Licensees shall not make any repairs to vehicles without the consent of the owner.

- (k) Vehicles shall be released from storage in accordance with regulations promulgated by the chief of police pursuant to section 28-124.
- (l) Licensees shall hold the city harmless from all claims for damages to property and injuries to persons resulting from the licensees' negligence in the towing or storage of vehicles pursuant hereto.
- (m) Licensees shall not require the owner of the towed vehicle to pay any charge unless signage warning that unauthorized vehicles will be towed at the vehicle owner's expense is posted clearly and conspicuously at each entrance and exit of nonresidential property from which the vehicle is removed or said signage is clearly and conspicuously visible from all entrances of the lot. Signs must include information about how a missing vehicle may be located.
- (n) Licensees shall conspicuously post current rates for services under this article at the release facility.
- (o) Licensees shall release vehicles within one (1) hour of the owner's request.

(Ord. No. 183-97, 1-22-97; Ord. No. 27-08/09, 8-4-08)

Sec. 28-124. Regulations may be promulgated by chief of police.

The chief of police is hereby authorized to promulgate regulations not inconsistent with this article to carry out the intent of the article. All licenses issued pursuant to this article shall be subject to such applicable regulations as are adopted hereunder either prior to or after the date of the issuance thereof.

(Ord. No. 183-97, 1-22-97)

Sec. 28-125. Rates for services.

Maximum rates for services regulated by this article shall be established by the city council after written notice to licensees and a public hearing thereon.

(Ord. No. 183-97, 1-22-97)

Sec. 28-126. Disposition of abandoned vehicles.

(a) The licensee shall comply with the procedures set forth in Title 29-A M.R.S.A., Chapter 15, Subchapter III.

(b) In the event of an unclaimed or abandoned vehicle, the licensee's sole remedy shall be as outlined in Title 29-A M.R.S.A., Chapter 15, Subchapter III regarding unclaimed and abandoned vehicles. A licensee may be reimbursed for administrative and legal costs incurred should the vehicle owner seek to re-claim the vehicle. Reimbursement shall be subject to review and approval by the Chief of Police or designee.

(c) A copy of Title 29-A M.R.S.A., Chapter 15, Subchapter III shall be issued to each licensee and shall be available to the public in the city clerk's office.

(Ord. No. 183-97, 1-22-97; Ord. No. 108A-17/18, 11-20-2017)

Sec. 28-127. Release of vehicles impounded pursuant to provisions for towing parked vehicles.

Whenever a vehicle has been removed and stored pursuant to police request, it shall not be released until the provisions of section 28-103(a), (b) or (c) concerning the payment of waiver fees and charges owed to the city have been complied with.

(Ord. No. 183-97, 1-22-97)

Sec. 28-128. Solicitation of business.

No wrecker may respond to the scene of an accident or emergency for the purpose of towing vehicles unless specifically called there by the police or person involved in the accident or emergency. This section is intended to prohibit wrecker owners from soliciting business at the scenes of accidents and emergencies and shall not be construed to prohibit any wrecker from contracting with any person providing the wrecker owner, his or her agents and employees do not solicit towing contracts at the scene of accidents or emergencies.

(Ord. No. 183-97, 1-22-97)

Sec. 28-129. Removal of towed vehicle or parts thereof from wrecker's lot.

No vehicle or part or accessory thereof that has been towed by police request shall be removed from the possession or premises of the licensee or owner of the storage area, except in accordance with section 28-103. This shall apply to and include, without

limitation, the owner of such vehicle. Nothing herein shall prohibit the licensee from acting in accordance with this article. Upon written application of the owner of a vehicle being held by the licensee, the chief of police or authorized representative may make suitable arrangements for the retrieval of specified personal effects of the registered owner if satisfied that there are exigent circumstances requiring retrieval prior to the owner reclaiming the vehicle. For purposes of this section, "personal effects" includes keys, medications, medical equipment, clothing, mail, child safety seats, and similar items. Except for child safety seats, items attached to the vehicle and business equipment, machinery, and tools are not considered personal effects.

(Ord. No. 183-97, 1-22-97; Ord. No. 108A-17/18, 11-20-2017)

Sec. 28-130. Enforcement.

(a) Any violation of this division shall be punishable by a fine as provided in section 1-15.

(b) The chief of police or his designee may, prior to commencement of court action, issue a notice of violation to any person charged with a violation of this division. Said notice shall be in a form approved by the corporation counsel and shall provide a method by which a person charged with a violation of this division may waive court action with respect to the violation by payment of a specified fee within a stated period of time.

(Ord. No. 183-97, 1-22-97)

Sec. 28-131. Reserved.

Sec. 28-132. Reserved.

Sec. 28-133. Reserved.

Sec. 28-134. Reserved.

Sec. 28-135. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15.

Sec. 28-136. Required.

(a) No towing or wrecking service shall tow any vehicle within the city without the express knowledge or consent of the

vehicle owner or his or her authorized representative, unless such towing or wrecking service is currently licensed.

(b) All licenses issued pursuant to this division shall be granted, denied, suspended or revoked by the Department of Permitting and Inspections.

(c) Licensees may request that they be placed on the towing list, which shall subject them to additional regulations promulgated by the chief of police pursuant to section 28-124.
(Ord. No. 183-97, 1-22-97)

Sec. 28-137. Investigation; issuance or denial.

(a) Within thirty (30) days after receipt of an application under this division, the Department of Permitting and Inspections, in conjunction with the chief of police, shall conduct an investigation to determine: The truth, accuracy and adequacy of the information contained in the application; the ability of the applicant to furnish the required service and to abide by the regulations and provisions set forth herein or established pursuant to section 28-124; the applicant's past record of performance in wrecker or towing business and the adequacy of the applicant's equipment and storage facilities. Upon completion of the investigation, the Department of Permitting and Inspections shall either grant or deny the license and notify the applicant in writing of such decision and the findings and reasons, if any, for denial of the license. Upon issuance of the license, the Department of Permitting and Inspections shall forward to the licensee a copy of this article and any regulations adopted pursuant thereto.

(b) The following must be submitted prior to commencement of the investigation:

- (1) Location, size and security features of the storage lot on which towed vehicles will be stored;
- (2) Location of release facility to which the public must come to claim stored vehicles;
- (3) List of towing equipment, including size and capacity;
- (4) Description of the two-way mobile communications and base station to be used for each wrecker and at the office where calls are received;

(5) Statement of willingness to provide release of vehicles on a continuous twenty-four-hour-a-day basis each day of the year;

(6) Such other information as the Department of Permitting and Inspections may require on the license application.
(Ord. No. 183-97, 1-22-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-138. Insurance required.

(a) No wrecker shall be issued a license until the applicant has deposited with the Department of Permitting and Inspections a certified copy of the following policies:

(1) Garage keeper's legal liability policy covering the premises, including fire, theft, windstorm, vandalism and explosion, in the amount of at least twenty-five thousand dollars (\$25,000.00), with each vehicle suffering damage or loss being deemed a separate claim.

(2) Towing/wrecker service commercial liability policy covering the operation of the licensee's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of three hundred thousand dollars (\$300,000.00) combined single limit for personal injury and property damage, or such other amount as may be required by the State of Maine from time to time, whichever amount shall be greater.

(3) Road service liability coverage for the lifting, hoisting and towing of vehicles must be included in the licensee's garagekeeper's legal liability policy.

(b) Each policy required above shall contain an endorsement by the carrier providing thirty (30) days notice to both the city and the insured in the event of any change in coverage under or cancellation of the policy. Each policy shall also contain an endorsement holding harmless the city or any of its officers or employees.

(c) The lapsing or cancellation of any policy as required hereinabove shall result in the immediate termination of the wrecker's license without any action on the part of the city.
(Ord. No. 183-97, 1-22-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-139. Fee.

Fees shall be as provided in chapter 15.
(Ord. No. 183-97, 1-22-97)

Sec. 28-140. Transferability.

Transferability of licenses issued under this division shall be as provided in chapter 15.
(Ord. No. 183-97, 1-22-97)

Sec. 28-141. Grounds for revocation, suspension or denial.

In addition to the grounds for revocation, suspension or denial found in chapter 15, a license issued under this division may be suspended or revoked or denied by the Department of Permitting and Inspections upon a determination that the licensee, or applicant, or wrecker operator:

- (a) Violated any of the requirements or regulations established herein or by the chief of police under this article; or
- (b) Has provided unsatisfactory services for city-authorized towing; or
- (c) Has been given a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or has been imprisoned at any time during said period for a disqualifying criminal conviction; provided that said conviction was for an offense which is rationally related to the purpose of licensing wreckers.

(Ord. No. 183-97, 1-22-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-142. General provisions to apply.

Except to the extent that this article contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions herein.

(Ord. No. 183-97, 1-22-97)

Sec. 28-143. Reserved.

Sec. 28-144. Reserved.

Sec. 28-145. Reserved.

ARTICLE V. POLICE TRAFFIC DIVISION

DIVISION 1. GENERALLY

Sec. 28-146. Established.

There is hereby established in the police department of this city a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police.

(Ord. No. 183-97, 1-22-97)

Sec. 28-147. Duties generally.

It shall be the duty of the traffic division with such aid as may be rendered by other members of the police, parking control officers or other authorized persons to enforce the street traffic laws of this city and all state laws applicable to street traffic in this city, to make arrests for traffic violations, to investigate accidents and to cooperate with the city traffic engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the division by this chapter.

(Ord. No. 183-97, 1-22-97)

Sec. 28-148. Record of violations to be kept.

(a) The traffic division shall keep a record of all traffic violations of the ordinances of this city or of the state law of which any person has been charged, together with a record of the final disposition of all such alleged offenses.

(b) Such record shall be so maintained as to show all types of violations and the total of each. Such record shall accumulate until a six (6) year period is covered and from that time on the record shall be maintained complete for the most recent six (6) year period. All forms for such records of violations and notices of violations shall be kept available to the public showing the disposal of all such forms.

(Ord. No. 183-97, 1-22-97)

Sec. 28-149. Reserved.

Sec. 28-150. Reserved.

DIVISION 2. ACCIDENTS

Sec. 28-151. Striking unattended vehicle.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, and a statement of the circumstances thereof.

(Ord. No. 183-97, 1-22-97)

Sec. 28-152. Striking fixtures on a street.

The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her operator's or chauffeur's license and shall make report of such accident when and as required in section 28-153.

(Ord. No. 183-97, 1-22-97)

Sec. 28-153. Accidents to be reported.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to the estimated amount of five hundred dollars (\$500.00) or more shall, within forty-eight (48) hours after such accident, forward a written report of such accident to the police department, which report may be a copy of the accident report required to be filed with the state police under the laws of this state. The police department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department, and may require witnesses of accidents to render reports to the department.

(Ord. No. 183-97, 1-22-97)

Sec. 28-154. Inability to report.

Whenever the driver of a vehicle is physically incapable of

making a required accident report and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made the report.
(Ord. No. 183-97, 1-22-97)

Sec. 28-155. File accident reports.

It shall be the duty of the traffic division to receive and properly file all accident reports required to be filed under state law.
(Ord. No. 183-97, 1-22-97)

Sec. 28-156. Investigation and recording of traffic accidents.

It shall be the duty of the traffic division to investigate traffic accidents and the division shall maintain a suitable system of filing traffic accident reports. Such accident reports, or cards referring to them, shall be filed alphabetically by location and such reports shall be available for use and information of the city traffic engineer. Whenever the accidents at any particular location become numerous, the division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures.
(Ord. No. 183-97, 1-22-97)

Sec. 28-157. Driver file to be maintained.

(a) The traffic division shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints in which the same shall be filed alphabetically under the name of the driver concerned.

(b) The traffic division shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or frequently involved in traffic accidents or any serious accident, and shall attempt to discover the reasons therefor, and shall take whatever steps are lawful and reasonable to prevent the same or have the licenses of such persons suspended or revoked.

(c) Such records shall accumulate until a six (6) year period is covered and thereafter such records shall be maintained complete for the most recent six (6) year period.
(Ord. No. 183-97, 1-22-97)

Sec. 28-158. Annual report to be filed.

The traffic division shall annually prepare a traffic report to contain information on traffic matters in the city as follows:

- (a) The number of traffic accidents, the number of persons killed or injured and other pertinent traffic accident data;
- (b) The number of traffic accidents investigated, the number of drivers with bad records interrogated and other pertinent data on the safety activities of the police;
- (c) The plans and recommendations of the division for future traffic safety activities.

(Ord. No. 183-97, 1-22-97)

Sec. 28-159. Reserved.
Sec. 28-160. Reserved.
Sec. 28-161. Reserved.
Sec. 28-162. Reserved.
Sec. 28-163. Reserved.
Sec. 28-164. Reserved.
Sec. 28-165. Reserved.

DIVISION 3. OPERATION OF VEHICLES

Sec. 28-166. Traffic-control devices.

An operator shall obey a traffic-control device, unless otherwise directed by a law enforcement officer. A traffic-control device conforming to the requirements for these devices is presumed to comply with this chapter.

- (a) *Lighted devices.* A traffic-control device may emit only the colors green, red and yellow, except for a pedestrian signal carrying a legend. The lights have the following meanings:
 - (1) *A green light:*
 - a. If circular, means the operator may proceed straight through or turn right or left, unless a sign prohibits either turn; or
 - b. If an arrow, alone or in combination with another

indication, means the operator may cautiously enter the intersection only to make the movement indicated by the arrow or other movement as is permitted by other indications shown at the same time.

Notwithstanding the light, the operator must yield the right-of-way to a vehicle or pedestrian lawfully within the intersection or crosswalk.

(2) *A yellow light:*

- a. If steady and circular or an arrow, means the operator must take warning that a green light is being terminated or a red light will be exhibited immediately; or
- b. If showing rapid intermittent flashes, means the operator may proceed only with caution.

(3) *A red light:*

- a. If steady and circular, means the operator must stop and remain standing until an indication to proceed is shown.

An operator may cautiously enter the intersection to make a right turn after stopping, unless prohibited by an appropriate sign such as "NO RIGHT TURN ON RED."

An operator executing a turn shall yield the right-of-way to pedestrians on a crosswalk and to a vehicle having a green signal at the intersection;

- b. If a steady arrow, means the operator may not enter the intersection to make the movement indicated by that arrow; or
- c. If showing rapid intermittent flashes, means the operator must stop and then proceed as if at a stop sign.

- (b) *Lane direction control devices.* When lane direction control devices are placed over the individual lanes, an operator may travel in a lane over which a green signal

is shown, but may not enter or travel in a lane over which a red signal is shown.

- (c) *Located other than at an intersection.* If a traffic-control device is located at a place other than an intersection, this section is applicable except as to those provisions that by their nature can have no application.
- (d) *Stop signs.* Unless directed to proceed by a law enforcement officer or traffic-control device, an operator of a vehicle approaching a stop sign shall stop and:
 - (1) Yield the right-of-way to a vehicle that has entered the intersection or that is approaching so closely as to constitute an immediate hazard; and
 - (2) Having yielded, an operator may proceed. All other operators approaching the intersection shall yield the right-of-way to the vehicle so proceeding.
- (e) *Place of stop.* A stop must be made before entering the intersecting way as follows:
 - (1) Where the intersection is regulated by a traffic-control device, at a sign or marking on the pavement indicating where the stop is to be made or, in the absence of a sign or marking, at the device; or
 - (2) Where the intersection is regulated by a stop sign, before entering the crosswalk or, in the absence of a crosswalk, at a marked stop line; but if there is no stop line, at a point nearest the intersecting way where the operator has a view of approaching traffic.
- (f) *Evidence.* The placing of a traffic-control device in a position approximately conforming to this chapter is prima facie evidence that the device has been placed by the official act or direction of lawful authority.

(Ord. No. 183-97, 1-22-97)

Sec. 28-167. Zone of quiet.

Whenever authorized signs are erected indicating a zone of quiet, no person operating a motor vehicle within any such zone

shall sound the horn or other warning device of the vehicle except in an emergency.

(Ord. No. 183-97, 1-22-97)

Sec. 28-168. Driving through safety zone.

No vehicle shall at any time be driven through or within a safety zone.

(Ord. No. 183-97, 1-22-97)

Sec. 28-169. Play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any street or portion thereof.

(Ord. No. 183-97, 1-22-97)

Sec. 28-170. Pedestrian and school crossings.

Whenever traffic is controlled by a pedestrian crossing stop sign exhibiting the word "STOP," vehicular traffic facing the sign shall stop before entering the nearest crosswalk or at such other point as may be indicated by a clearly visible line, and shall then proceed with due caution, having regard to the safety of the pedestrians crossing at that point. The city traffic engineer shall designate the time of placing such signs and the location thereof. The foregoing shall also apply to school crossing signs.

(Ord. No. 183-97, 1-22-97)

Sec. 28-171. No through traffic.

Whenever authorized signs are erected indicating any street or part thereof to be for "No Through Traffic," no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such restricted area.

(Ord. No. 183-97, 1-22-97)

Sec. 28-172. Trucks and buses prohibited on certain streets.

(a) No truck which exceeds a gross vehicle weight of nine thousand (9,000) pounds and no bus other than a local passenger bus

picking up and discharging passengers along designated routes at specified stops shall travel over the streets or parts of streets designated as being so restricted in the traffic schedule, except when such street or parts of streets are the only access to render service to or to deliver supplies to persons residing or businesses and industries located thereon.

(b) No truck or bus, except tour buses and except trucks serving the pollution abatement facilities, located on or adjacent thereto, shall travel over Baxter Boulevard beyond the points indicated by signs thereon except when necessary to render service to or to deliver supplies to persons residing adjacent thereto where other means of access to such residences are not reasonably convenient.

(c) No vehicle of more than two (2) tons, manufacturer's rated capacity, shall be permitted to be at any time on Congress Street between Center Street and State Street, or on Free Street, save for the purpose of loading or making a delivery on such streets, under conditions prescribed elsewhere in this chapter.

(d) Exemption. Any vehicle engaged in the delivery of emergency road service is exempt from the limits or restrictions imposed by this section.

(Ord. No. 183-97, 1-22-97; Ord. No. 196-98, 2-18-98; Ord. No. 204-06/07, 6-4-07)

State law reference(s)--Weights, size and loads, 29 M.R.S.A. § 1611 et seq.

Sec. 28-173. No-turn and turning.

Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such sign, and when authorized marks, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(Ord. No. 183-97, 1-22-97)

Sec. 28-174. Turning around limited.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--"U" turns, 29 M.R.S.A. § 1152.

Sec. 28-175. Crosswalks and intersections not to be blocked.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. No. 183-97, 1-22-97)

Sec. 28-176. Driving out from curb.

No person shall drive a vehicle out from the curb on any street without first looking to see that he or she shall not pull directly into the path of an approaching vehicle, nor without giving a signal by hand or by mechanical turn signal indicating that he or she is about to drive out from the curb.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Moving parked vehicle, 29 M.R.S.A. § 956.

Sec. 28-177. Emerging from driveways.

The driver of a vehicle emerging from a private driveway, automobile service station or building shall stop such vehicle immediately prior to driving onto a sidewalk and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. No. 183-97, 1-22-97)

Sec. 28-178. Backing limited.

The driver of a vehicle shall not back the same into an intersection or over a crosswalk and shall not in any event or at any place back a vehicle unless such movement can be made in safety.

(Ord. No. 183-97, 1-22-97)

Sec. 28-179. Driving on sidewalks.

The driver of a vehicle shall not drive within or over any sidewalk area except at a permanent or temporary driveway, provided however, that persons authorized to operate pushcarts pursuant to article II of chapter 19 shall not be prohibited from propelling

such pushcarts within sidewalks in the course of business and in accordance with the provisions of and limitations imposed pursuant to article II of chapter 19.

(Ord. No. 183-97, 1-22-97)

Sec. 28-180. Driving on publicly owned property.

The driver of a vehicle shall not drive on any publicly owned property not a street, highway or roadway, except driveways, loading areas, parking lots, or other similar areas set aside for such purpose. Without limiting the foregoing, no vehicles shall be allowed on the Eastern Promenade Trail, except upon the express permission of the parks authority.

(Ord. No. 183-97, 1-22-97)

Sec. 28-181. Clinging to moving vehicles.

Any person riding upon any bicycle, tricycle, motorcycle, coaster, sled, skis, roller skates, or any device whatsoever or toy vehicle as defined in 29-A M.R.S.A. § 2063 shall not attach the same or himself or herself to any moving vehicle upon any roadway nor shall any person without any such device or vehicle attach himself or herself to the outside of any moving vehicle upon any roadway.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.
(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.
(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on Portland islands.

The operation of golf carts shall be permitted on the streets of Portland's islands if in compliance with the following requirements:

(a) The operator must possess a valid license to operate a motor vehicle;

(b) Such golf carts shall be operated only in daylight, not earlier than one-half hour before sunrise and not later than one-half hour after sundown; unless equipped with and utilizing suitable headlights and tail lights as determined by the police department; shall keep to the extreme right of the roadway; shall not exceed a speed of twenty (20) miles per hour; and shall obey all traffic laws applicable to motor vehicles including but not limited to, the fifteen (15) miles per hour speed limit in effect when passing a school during recess or while children are going to or leaving school during opening or closing hours;

(c) Each golf cart shall be equipped with an auditory warning device, a visual safety flag on a whip antenna of at least six (6) feet in height; slow vehicle markings; and display a sticker on the cart showing annual registration with the city treasury division as an island vehicle;

(d) When in use at nighttime or at other times when motor vehicles are required to display headlights, a personal assistive mobility device or golf cart must have:

1. A lit front light that emits a white light visible from

a distance of at least 200 feet to the front;

2. A red reflector to the rear that is visible at least 200 feet to the rear; and
3. A 12-inch reflector strip or visibility tape prominently displayed on both the driver's and passenger's side of the cart; and

(e) While the golf cart is in motion, the driver and every passenger in a golf cart must be seated in a seat designed to hold passengers. No person may stand up or ride in the lap of the driver and/or other passenger of a golf cart while it is moving.

(Ord. No. 183-97, 1-22-97; Ord. No. 271-16/17, 6-19-2017)

Sec. 28-186. Speed limits.

(a) Any person operating a motor vehicle on any street, highway or public way within the jurisdiction of the city shall operate that vehicle at a careful and prudent speed not greater than is reasonable and prudent under the conditions existing at the time, and in no case in excess of any posted limit, and having due regard to the traffic, surface and width of the road, and to the actual and potential hazards in any condition then existing.

(b) Except when conditions or other regulations require a lower speed:

- (1) No person shall operate any vehicle on any street, highway, public way or throughway in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during opening or closing hours;
- (2) No person shall operate a vehicle on any street, highway, public way or throughway in excess of twenty-five (25) miles per hour in a compact or built-up section of the city unless otherwise posted;
- (3) No person shall operate a vehicle on any street, highway, public way or throughway in excess of forty-five (45) miles per hour unless otherwise posted.

(Ord. No. 183-97, 1-22-97)

Sec. 28-187. Speed measurement.

The results of a measurement of the following instruments must be accepted as prima facie evidence of the speed of a motor vehicle in a civil infraction proceeding under this Code:

- (a) Radar;
- (b) An electronic device that measures speed by radiomicrowaves, laser or otherwise; or
- (c) A device that measures, in any sequence, a selected distance traversed by a motor vehicle operated by the law enforcement officer and the time required by another motor vehicle to traverse that same distance, and computes therefrom the average speed of the other vehicle.

(Ord. No. 183-97, 1-22-97)

Sec. 28-188. Signs.

The presence of signs is prima facie evidence that those signs were erected, that they provide the notice required and that the speeds indicated were fixed in accordance with state law.

(Ord. No. 183-97, 1-22-97)

Sec. 28-189. Bicycle lane.

No person shall stop or operate any motor vehicle within a bicycle lane and pedestrian lane designated as such by the city traffic engineer.

(Ord. No. 183-97, 1-22-97)

Sec. 28-190. Fines and penalties.

(a) *General penalty.* The violation of any provision of this article shall be punishable by a fine of not less than fifty-five dollars (\$55.00) nor more than two hundred seventy-five dollars (\$275.00).

(b) *Waiver penalty.* A person that files a written answer of "not contested," "guilty," or that otherwise admits the charges within twenty (20) days after service of a summons and complaint charging a violation of this article shall pay the following amounts at the same time that the answer is filed:

Ordinance Section	Violation	Amount Due
28-166	Failing to obey a traffic-control device	\$55.00
	Failing to proceed with caution on flashing yellow light	55.00
	Failing to stop for flashing red light	55.00
	Failing to stop for red light	55.00
	Failing to stop on red before right turn	55.00
	Failing to yield after flashing red light	55.00
	Turning right on red without yielding	55.00
	Turning right on red where prohibited	55.00
	Violation of red arrow signal	55.00
	Entering/traveling in lane against red signal	55.00
28-167	Sounding a horn or warning device in a quiet zone	55.00
28-168	Driving through a safety zone	82.50

28-169	Driving on a street designated as a play area	82.50
28-170	Failing to stop at pedestrian or school crossing stop sign	82.50
28-171	Driving through a "NO THROUGH TRAFFIC" zone	55.00
28-172	Driving a truck or bus on a prohibited street	55.00
28-173	Failing to obey a "no right" or "left" or "U-turn" sign; failing to follow turn indication markings	55.00
28-174	Making an illegal "U" turn	55.00
28-175	Blocking a crosswalk or intersection	55.00
28-176	Improper driving out from curb	55.00
28-177	Improper street entry from a driveway	55.00
28-178	Improper backing up	55.00
28-179	Driving on a sidewalk	82.50
28-180	Driving on publicly owned property	55.00
28-181	Clinging to moving vehicle	55.00

28-182	Driving in an unpermitted parade	55.00
28-183	Failing to keep right while driving in a funeral procession	55.00
28-184	Driving between vehicles in a funeral procession	55.00
28-185	Illegal operation of a golf cart	55.00
28-186	Speeding 1 to 15 mph over limit	88.00
	Speeding 16 to 25 mph over limit	110.00
	Speeding 26 to 29 mph over limit	148.00
	Imprudent speed	88.00
	Speeding 1 to 15 mph over limit in school zone	115.50
	Speeding 16 to 25 mph over limit in school zone	137.50
	Speeding 26 to 29 mph over limit in school zone	176.50
28-189	Operating a motor vehicle on a designated bicycle or pedestrian lane	55.00

(Ord. No. 183-97, 1-22-97)

Sec. 28-191. Waiver process.

(a) A person charged with a violation of this article may waive their right to a court hearing by filing a written answer with the Maine District Court within twenty (20) days after service of the summons and complaint along with the fine imposed by section 28-190.

(b) The written answer must indicate that the person does not wish to contest the violation.

(c) The person shall be informed that by filing such an answer they give up their right to a trial. They must also be informed that:

- (1) An answer of "not contested" is not admissible evidence in any other civil or criminal court proceeding arising out of the same set of facts.
- (2) The filing of a written answer along with the required fine shall constitute an adjudication of a civil violation.
- (3) A record of the adjudication will be sent to the secretary of state's motor vehicle division.
- (4) If they wish to contest the violation they must appear in court on the date, time and place noted on the face of the summons and complaint.
- (5) They have a right to hire a lawyer to represent them at their own expense.

(d) A person accused of a violation of this article may file a written answer on a form prepared for that purpose by the city which meets the requirements of this article.

(Ord. No. 183-97, 1-22-97)

Sec. 28-192. Reserved.

Sec. 28-193. Report to secretary of state.

Adjudications under this chapter shall be reported to the secretary of state pursuant to 29-A M.R.S.A. § 2607.

(Ord. No. 183-97, 1-22-97)

Sec. 28-194. Impoundment of Motor Vehicles/Operating After Suspension or Revocation

(a) Purpose. It is necessary and appropriate to take steps to deprive drivers whose driving privileges or operator's license have been suspended or revoked and who pose a danger to persons and property of their means of committing the crime of operating after suspension. Impounding the vehicles of intoxicated, suspended or revoked drivers serves a significant governmental and public interest, namely the protection of the health, safety and welfare of the public by reducing the threat intoxicated, suspended or revoked drivers pose to life and property.

(b) Certain Vehicles as Nuisances. The following motor vehicles are hereby declared to be nuisances and subject to impoundment by the City:

- (1) A motor vehicle operated by a person whose operator's license or driving privileges are suspended pursuant to Title 29-A of the Maine Revised Statutes and who has, in the last five years, been convicted of Operating After Suspension.
- (2) A motor vehicle used to commit the crime of Criminal OUI in violation of 29-A MRSA §2411, at a time when the operator's license or driving privileges are under suspension or revocation.
- (3) A motor vehicle operated by a person whose license or driving privileges have been revoked as a habitual offender pursuant to 29-A MRSA §2551.

(c) Vehicle impoundment.

- (1) Whenever a law enforcement officer has probable cause to believe that a person is operating a vehicle in the City of Portland: (1) while his or her operator's license or driving privileges are suspended or revoked and that person has a prior conviction for Operating after Suspension in the last five years; or (2) that the operator has had his or her license or driving privileges revoked as an habitual offender pursuant to 29-A M.R.S.A. § 2551, the officer may immediately arrest or summons the person under State law for Operating after Suspension and impound the vehicle under this ordinance. A vehicle so

impounded shall be impounded for fifteen days.

- (2) Whenever a law enforcement officer has probable cause to believe that a person is operating a vehicle in the City of Portland while his or her operator's license or driving privileges are suspended or revoked and that person is under the influence of intoxicating liquor or drugs, the officer may immediately arrest the person under State law for Operating after Suspension and/or Criminal OUI and impound the vehicle under this ordinance. A vehicle so impounded shall be impounded for fifteen days unless the vehicle is subject to forfeiture by the State of Maine pursuant to 29-A MRSA §2421.
- (3) The police department shall, within two working days of the impoundment, send a notice by certified mail, return receipt requested, and by regular mail, to the legal owner of the vehicle at the address obtained from the vehicle registration office of the Department of Motor Vehicles, informing the owner that the vehicle has been impounded. The notice shall inform the owner that the owner has the right to a hearing to determine the validity of the impoundment, or consider any mitigating circumstances attendant to the impoundment that may lead to the vehicle's immediate release. The police department must conduct the hearing within 24 hours of the owner's request. The hearing officer's decision may be immediately appealed to the City Manager or the Manager's designee, who shall hold a hearing within 48 hours of the notice of appeal. If the department fails to send the notice required by this section, the vehicle must be released immediately upon the owner's written request and no impoundment fee charged.
- (4) The police department shall release a vehicle to the registered owner prior to the end of the fifteen days impoundment under any of the following circumstances:
 - a. When the vehicle is a stolen vehicle;
 - b. When the vehicle is subject to bailment and is driven by an unlicensed employee of the business establishment, including a parking garage or repair service;
 - c. When the legal owner of the motor vehicle is a

bank, credit union, acceptance corporation or other licensed financial institution that holds a security interest in the vehicle and the vehicle is subject to repossession;

- d. When the vehicle is a rental vehicle owned by a car rental agency and was in the possession of the operator pursuant to a rental agreement;

An owner claiming a vehicle pursuant to this subsection shall pay all costs associated with the impoundment; including towing, any accrued storage fees and administrative fees.

- (5) No vehicle shall be released pursuant to this section except upon presentation of the registered owner's current, valid driver's license and proof of current registration and insurance or upon order of the court.
- (6) Upon expiration of the fifteen-day impoundment period, no person or entity having custody of a motor vehicle pursuant to the provisions of this section shall release the vehicle until the individual requesting release presents satisfactory evidence of his right to possession, signs a receipt therefor and pays all fees associated with the impoundment, including all costs for towing, storage and administrative fees.
- (7) A vehicle may be released prior to the mandated impoundment period:
 - a. If the employer, spouse, or parent of the operator of the vehicle establishes by credible evidence that significant economic or personal hardship will result from the impoundment. In making a hardship determination the hearing officer shall consider public safety factors, including the operator's criminal history and driving record.
 - b. If the registered owner of a vehicle loaned to the operator is able to demonstrate by credible evidence to the hearing officer that the owner had no knowledge that the person to whom the vehicle was loaned did not have valid driving privileges in the State of Maine and is willing to provide the hearing officer with a signed, sworn statement regarding this lack of knowledge.

- c. Any denial or approval of a release under this subsection shall be in writing and shall include factors considered by the hearing officer in reaching the decision. The hearing officer's decision may be appealed by the owner to the City Manager or the Manager's designee.
- d. The owner of a vehicle released under this subsection shall pay all fees associated with the impoundment, including towing, storage and administrative fees.

(d) Vehicles not released from impoundment. Vehicles or property remaining unclaimed for fifteen days after the date on which the impoundment period ends shall be disposed of in accordance with the requirements of Maine state law for the disposition of abandoned motor vehicles.

(e) Exceptions. This ordinance shall not apply to:

- (1) Individuals whose operator's license or privilege to operate has been suspended for failing to make child support payments;
- (2) Motor vehicles involved in an accident or crime that are impounded by the police department as evidence.

(Ord. No. 200-01/02, 4-1-02; Ord. No.28-08/09, 8-4-08)

Sec. 28-195. Idling of private passenger motor vehicles.

(a) *Application.* This section applies to gasoline-powered private passenger vehicles. This section does not apply to commercial vehicles or other vehicles which are subject to the provisions of 38 M.R.S.A. § 585-K.

(b) *Five-minute limitation.* No person may cause or allow a private passenger motor vehicle to idle for more than five consecutive minutes in any sixty-minute period. For purposes of this section, "idle" shall mean that the primary propulsion engine is running while the vehicle is stationary and not engaged in a gear to power the drive train.

(c) *Exceptions.* The limitation set forth in subsection (b) shall not apply to:

- (1) Motor vehicles idling while in a traffic lane, as the result of congested traffic conditions beyond the driver's control (traffic jams);
- (2) Motor vehicles idling when operating a defroster, heater, air conditioner or installing equipment solely to prevent a safety or health emergency and not as part of a rest period;
- (3) Motor vehicles idling for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity;
- (4) Motor vehicles idling as part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection;
- (5) Motor vehicles idling due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection (d);
- (6) Motor vehicles idling for not longer than an additional 10 minutes beyond the limit imposed in subsection (b) to operate heating equipment when the ambient air temperature is 32 degrees Fahrenheit or below; and
- (7) Motor vehicles idling as needed for the purpose of providing heat when the ambient air temperature is below 0 degrees Fahrenheit.

(d) *Prima facie evidence.* The fact that a parked motor vehicle is idling in violation of this section shall be prima facie evidence that the unlawful idling was caused or allowed by the person in whose name that vehicle is registered.

(e) *Enforcement and penalties.*

- (1) This section shall be enforced by the police department and the parking division, through the police officers and parking control officers.

- (2) Any person who violates this section shall be punished by a minimum penalty of fifty dollars (\$50.00).
- (3) Any person who violates this section shall have the option in lieu of going to court of paying a waiver fee of twenty-five dollars (\$25.00) within ten (10) days of the receipt of a notice of violation or court summons.
- (4) For a period of one hundred and eighty (180) days following the effective date of this section, violators shall only receive written warning for violations; after the 180-day period, violations shall be fully enforced in accordance with this section.

(Ord. No. 64-08/09, 9-15-08)

DIVISION 4. EMERGENCY VEHICLES

Sec. 28-196. Emergency vehicles.

(a) The provisions of this chapter shall apply to authorized emergency vehicles except as follows. A driver when operating any such vehicle when responding to an emergency, except when otherwise directed by a police or parking control officer or other authorized person, may:

- (1) Stop, stand or park notwithstanding the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the maximum speed limits so long as life or property is not endangered, except that employees of the state department of corrections may not exercise this privilege;
- (4) Disregard regulations governing direction of movement or turning in specified directions;
- (5) Proceed with caution past a stopped school bus that has red lights flashing only:
 - a. After coming to a complete stop; and

b. When signaled by the school bus operator to proceed.

(b) The foregoing exemptions do not relieve the operator of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor do those exemptions protect the operator from the consequences of the operator's reckless disregard for the safety of others.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Right-of-way of police and fire vehicles, 29 M.R.S.A. § 946.

Sec. 28-197. Reserved.

Sec. 28-198. Reserved.

Sec. 28-199. Reserved.

Sec. 28-200. Reserved.

DIVISION 5. PEDESTRIANS

Sec. 28-201. When pedestrian has right-of-way.

Where traffic-control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this article.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Pedestrians right-of-way in crosswalks, 29 M.R.S.A. § 954.

Sec. 28-202. When vehicle has right-of-way.

Every pedestrian crossing a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall cross at right angles to the curb or by the shortest route to the opposite curb and shall yield the right-of-way to all vehicles upon the roadway.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Crossing at other than crosswalks, 29 M.R.S.A. § 955.

Sec. 28-203. Crossing at traffic-control signals.

(a) A pedestrian starting to cross a street in any crosswalk in the city on a green signal or "WALK" pedestrian signal indicator, or where a police officer or other authorized person is directing traffic, shall have the right-of-way over all vehicles, including those making turns, until such pedestrian has reached the opposite curb. It shall be unlawful for the operator of any vehicle to fail to yield the right-of-way to any pedestrian who is crossing a street as herein provided.

(b) In an intersection controlled by traffic signals where pedestrian signal indicators are provided, the "DON'T WALK" indication, steadily illuminated, means that a pedestrian shall not enter the street in the direction of the signal. The "DON'T WALK" indication, while flashing, means that a pedestrian shall not start to cross the street in the direction of the signal indication, but that any pedestrian who has partly completed his crossing during the steady "WALK" indication shall proceed to a sidewalk, or to a safety island. The "WALK" indication means that a pedestrian facing the "WALK" signal indication may proceed across the street in the direction of the indication.

(c) In an intersection controlled by traffic signals where there is no pedestrian signal indicator, it shall be unlawful for a pedestrian facing a red or "stop" signal or a red with green arrow signal to cross the street unless he is directed to do so by a police officer or other authorized person directing traffic. A pedestrian facing a yellow or "caution" signal is thereby advised that there is insufficient time to cross the street and any pedestrian starting to cross shall yield the right-of-way to all vehicles.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Pedestrian-control signals, 29 M.R.S.A. § 951.

Sec. 28-204. Drivers to exercise due care.

Notwithstanding the provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

(Ord. No. 183-97, 1-22-97)

Sec. 28-205. Pedestrians to walk on right of crosswalk.

A pedestrian shall move, wherever practicable, upon the right half of crosswalks.

(Ord. No. 183-97, 1-22-97)

Sec. 28-206. Pedestrian not to stand in street; exception.

It shall be unlawful for a pedestrian to stand in any street other than in a safety zone or in a crosswalk if such action interferes with the lawful movement of traffic. This section shall not apply to any police officer, surveyor, street sweeper or other person when necessarily upon a street in the line of duty.

(Ord. No. 183-97, 1-22-97)

Sec. 28-207. Pedestrian not to walk in street; exception.

Where sidewalks are provided and their use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent way. Where sidewalks are not provided, any pedestrian walking along and upon a street shall walk only on the left side of the way or its shoulder facing traffic.

(Ord. No. 183-97, 1-22-97)

Sec. 28-208. Solicitation of transportation prohibited; exceptions.

It shall be unlawful for any person while upon any street or the right-of-way of any street to endeavor by words, gestures, or otherwise to beg, invite or secure transportation in any motor vehicles not engaged in passenger-carrying for hire, unless the person knows the driver thereof or any passenger therein, provided, nothing in this section shall prohibit the solicitation of aid in the event of accidents or by persons who are sick or seeking assistance for the sick; and provided furthermore that the exception for sickness shall apply only in cases of bona fide sickness in which an emergency exists.

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Hitchhiking prohibited, 29 M.R.S.A. § 2188.

Sec. 28-209. Reserved.

Sec. 28-210. Reserved.

Sec. 28-211. Reserved.

Sec. 28-212. Reserved.

Sec. 28-213. Reserved.

Sec. 28-214. Reserved.

Sec. 28-215. Reserved.

DIVISION 6. BICYCLES, SKATEBOARDS AND ROLLERSKATING

***Editor's Note**—Pursuant to Council Order No. 33 passed 8/20/07 and pursuant to Sec. 28-224, skateboarding is prohibited on the sidewalks within the yellow zone of the Portland Downtown District, which is bounded by Cumberland Ave, Franklin Arterial, Commercial t. and State St.

Subdivision 1. Generally

Sec. 28-216. Definitions; traffic laws apply.

(a) "Bicycle" as used in this chapter shall mean a device upon which a person may ride that is propelled by human power and that has two (2) tandem wheels, either of which is more than twenty (20) inches in diameter, and includes a motorized bicycle or a motorized tricycle. "Toy vehicle" includes but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

(b) Every person riding a bicycle or skateboard, or rollerskating upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle by the laws of this state declaring rules of the road applicable to motor vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to those provisions of laws and ordinances which by their nature can have no application, and except as to special regulations in this article.
(Ord. No. 183-97, 1-22-97)

Sec. 28-217. Obedience to traffic-control devices.

(a) Any person operating a bicycle or skateboard, or rollerskating shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs indicate that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.
(Ord. No. 183-97, 1-22-97)

Sec. 28-218. Manner of riding.

(a) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(Ord. No. 183-97, 1-22-97)

Sec. 28-219. Riding on roadways and bicycle paths.

(a) Every person operating a bicycle or skateboard, or rollerskating upon a roadway, shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles or skateboards, or rollerskating upon a roadway, shall not ride more than two (2) abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles or skateboards or rollerskating.

(c) Whenever a usable path for bicycles or skateboards or rollerskates has been provided adjacent to a roadway, bicycle or skateboard riders or rollerskaters shall use such path and shall not use the roadway.
(Ord. No. 183-97, 1-22-97)

Sec. 28-220. Speed.

No person shall operate a bicycle or skateboard or rollerskates at a speed greater than is reasonable and prudent under the conditions then existing.
(Ord. No. 183-97, 1-22-97)

Sec. 28-221. Emerging from alley or driveway.

The operator of a bicycle or skateboard or rollerskates emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Ord. No. 183-97, 1-22-97)

Sec. 28-222. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the operator from keeping at least one

(1) hand upon the handle bars.
(Ord. No. 183-97, 1-22-97)

Sec. 28-223. Parking.

No person shall park a bicycle upon a street or roadway other than against the curb or upon the sidewalk in a rack to support the bicycle or against a building or in such other manner as to afford the least obstruction to pedestrian or vehicular traffic.

(Ord. No. 183-97, 1-22-97)

Sec. 28-224. Riding on sidewalks, streets and ways.

(a) The city council is authorized by council order to prohibit the riding of bicycles or skateboards or rollerskating on any public property, sidewalk, street or way within the city where such prohibition is necessary to protect the safety of pedestrians and motorists. The traffic engineer is authorized to place appropriate signs on such sidewalks, streets or ways indicating such prohibition and the times during which such prohibition shall be effective.

The superintendent of schools is authorized to regulate the riding of bicycles or skateboards or rollerskating on any school grounds.

(b) Whenever any person is riding a bicycle or skateboard, or rollerskating upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(Ord. No. 183-97, 1-22-97)

Sec. 28-225. Operation in parks.

The parks authority shall have the power and authority to designate and plainly mark such public property, streets, ways or other areas as may not be ridden upon by persons riding upon bicycles, skateboards or rollerskates within the public parks.

(Ord. No. 183-97, 1-22-97)

Sec. 28-226. Lamps and other equipment.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from fifty (50) feet to the rear when directly in front of

lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Ord. No. 183-97, 1-22-97)

Sec. 28-227. Responsibility of rental agencies.

A rental agency shall not rent or offer any bicycle for rent, unless the bicycle is licensed and a license is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required in this article.

(Ord. No. 183-97, 1-22-97)

Sec. 28-228. Violations.

(a) Any person violating any provision of this article, other than section 28-231, shall have the option in lieu of going to court of paying a waiver fee of twenty-five dollars (\$25.00) within ten (10) days of the receipt of a notice of violation or court summons.

(b) Any person convicted by a court of law of violating any provision of this article other than section 28-231 shall be punished by a minimum penalty of fifty dollars (\$50.00).

(c) Any person violating the provisions of section 28-231 shall be given written notice of such violation. If a person who has been given such notice of violation fails to register the bicycle within ten (10) days of the notice of violation, any unregistered bicycle being ridden or propelled shall be subject to being impounded by any police officer of the city who observes it being ridden or propelled by such person. All bicycles impounded hereunder shall be held by the chief of police until such time as claimed by a person showing right to possession and upon payment of an impoundment fee of fifty dollars (\$50.00). Any bicycle not redeemed within six (6) months of impoundment may be deemed abandoned or unclaimed property and disposed of in accordance with the provisions of state law. Any person wishing to contest the validity of the impoundment may post a bond for ten dollars (\$10.00) and request an administrative hearing before the chief of police or his or her duly authorized representative, who shall refund the impoundment fee if it is determined that the person had

not received notice, that the ten-day period had not expired, or that the second violation did not occur. The administrative decision may be appealed to superior court pursuant to Rule 80B of the Maine Rules of Civil Procedure.
(Ord. No. 183-97, 1-22-97)

Sec. 28-229. Reserved.

Sec. 28-230. Reserved.

Subdivision 2. Bicycle Registration

Sec. 28-231. Reserved.

Editor's note--Ord. No. 132-98, § 1, adopted Oct. 19, 1998, repealed § 28-231, registration required, which derived from Ord. No. 183-97, adopted Jan. 22, 1997.

Sec. 28-232. Who may register; issuance; record.

(a) Registration may be made by:

- (1) The chief of police, or his or her designated representative; and
- (2) Any person in the business of selling new bicycles, to whom the chief of police has issued registrations in blank, to any purchaser of a new bicycle from such seller.

(b) No registration shall be issued for any bicycle when the issuer knows or has reasonable grounds to believe that the applicant is not the owner of or entitled to the possession of such bicycle.

(c) The person registering the bicycle shall keep a record of the bicycle, which shall include at a minimum: The date issued, the name and address of the owner, the make, the serial number, and the registration number on the frame of the bicycle; and shall supply such information to the chief of police within thirty (30) days thereafter.
(Ord. No. 183-97, 1-22-97)

Sec. 28-233. Attachment.

(a) The person issuing the registration decal shall attach it

to the frame of the bicycle for which it is issued.

(b) No person shall remove a registration decal from a bicycle during the period for which issued, except upon renewal or transfer of ownership or in the event the bicycle is no longer to be operated within the city.

(Ord. No. 183-97, 1-22-97)

Sec. 28-234. Reserved.

Sec. 28-235. Reserved.

Sec. 28-236. Reserved.

Sec. 28-237. Reserved.

Sec. 28-238. Reserved.

Sec. 28-239. Reserved.

Sec. 28-240. Reserved.

DIVISION 7. ALL-TERRAIN VEHICLES

Sec. 28-241. Defined.

All-terrain vehicle shall mean a motor-driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel, or low-pressure tire vehicle; a motorcycle or related two-wheel, three-wheel or belt-driven vehicle or "dirt bike;" an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this chapter, "all-terrain vehicle" does not include an automobile as defined in 29-A M.R.S.A. § 101(7); a truck as defined in 29-A M.R.S.A. § 101(88); a snowmobile; airmobile; construction or logging vehicle used in the performance of its common function; a farm or garden vehicle used for farming or gardening purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

(Ord. No. 183-97, 1-22-97)

Sec. 28-242. Operation on publicly-owned property.

(a) No person shall operate an all-terrain vehicle on any publicly owned property, sidewalk or street within the city, except as specifically provided in subsections (b) or (c).

(b) An all-terrain vehicle may be operated on specifically designated publicly owned property, sidewalks and/or streets in

special events of limited duration conducted according to prearranged schedule, under a permit from the city manager's office.

(c) On any street where the operation is of a motorcycle registered with the secretary of state under Title 29-A M.R.S.A. (Ord. No. 183-97, 1-22-97)

Sec. 28-243. Operation on private property.

(a) Any person operating an all-terrain vehicle upon the land of another shall stop and identify himself and produce the state registration certificate required pursuant to 12 M.R.S.A. section 7854 upon the request of the land owner, his duly authorized representative or a police officer.

(b) No person shall operate an all-terrain vehicle on the land of another after having been forbidden to do so by the owner thereof, the owner's agent or a police officer, either personally or by appropriate notices posted conspicuously on that property. (Ord. No. 183-97, 1-22-97)

Sec. 28-244. Impoundment for violation.

(a) Any person violating any provision of this article shall be given written notice of such violation. Any all-terrain vehicle for which there has been no payment of waiver fee or issuance of court process subsequent to written notice of violation and which is then operated in violation of any provision of this article may, at the option of the police officer, be removed and stored by the police officer until all waiver fees for all outstanding violations and any fees for impoundment, transfer and storage have been paid or until the requirements of subsection (b)(2) or (b)(3) have been met. The police officer impounding the vehicle under this article shall notify the operator, in writing, at the time of impoundment of the location of impoundment and the requirements for release.

(b) Any person having custody of an all-terrain vehicle, pursuant to the provisions of this section, shall not release it until the individual requesting its release presents satisfactory evidence of right to possession, signs a receipt therefor, and:

- (1) The director of finance or chief of police certify that all waiver fees and all charges for impoundment, including removal, transfer and storage, have been paid; or

- (2) Until the director of finance shall certify the posting of a bond equal to the total waiver fees which should have been remitted for the overdue notices of violations and other charges set forth in subsection (1) above; or
- (3) Upon certification of the chief of police that such person has both demonstrated that he/she is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status and accepted service of process initiating a court proceeding to determine liability for such alleged violations and such person pays all charges set forth above.

(Ord. No. 183-97, 1-22-97)

Sec. 28-245. Reserved.

Sec. 28-246. Reserved.

Sec. 28-247. Reserved.

Sec. 28-248. Reserved.

Sec. 28-249. Reserved.

ARTICLE VI. TRAFFIC CALMING.

Sec. 28-250. Statement of Purpose.

The purpose of this Ordinance is to set forth a specific procedure and methodology for: citizen or council requested traffic calming plans; determining that a problem exists and the need for traffic calming devices to solve it; selecting the proper device or devices to correct the problem; and monitoring the effectiveness and impact of installed devices on traffic on both the subject street and abutting streets. The Ordinance shall be interpreted and applied in a manner that is consistent with the City of Portland's Transportation Plan.

(Ord. No. 234-99, 3-29-99)

Sec. 28-251. Definitions.

(a) "City Manager" means the City Manager or the Manager's designee.

(b) "Public Works Director" means the Public Works Director or the Director's designee.

(c) "Street" means a city-accepted street or a portion of such a street.

(d) "Resident" means a person at least 18 years of age who lives in a dwelling unit that is the person's principle place of living or home.

(Ord. No. 234-99, 3-29-99)

Sec. 28-252. Petition or request for determination of preliminary eligibility.

(a) Petition procedure. Any ten or more residents or business owners on a specific City street may file a petition with the City Clerk on a form supplied by the Clerk a petition stating:

- (1) That the signers are at least 18 years of age and residents or business owners on the specific street;
- (2) The printed names and addresses of the person signing the petition and the person's signature;
- (3) The address and name of the individual to whom all notices or correspondence to the petitioners are to be sent;
- (4) That the signators of the petition seek a determination of preliminary eligibility for traffic calming from the City's Traffic Engineer for a specified street.

(b) Forwarding of Petition. Copies of the petition shall be sent forthwith by the Clerk to the City's Traffic Engineer and to each member of the City Council.

(c) Councilor Initiated Process. Any City Councilor may file a written request with the Clerk seeking a determination of preliminary eligibility from the City's Traffic Engineer for a specified street. That request will initiate the process for the determination of preliminary eligibility of such street. Copies of the request shall be sent forthwith by the Clerk to the City's Traffic Engineer and to each member of the City Council. The request may designate a person or persons to whom notices or decisions shall be sent that would otherwise be sent to petitioners. In the absence of such a designation, all such notices or decisions shall be sent to the Councilor.

(Ord. No. 234-99, 3-29-99; Ord. No.198-03/04, 6-7-04)

Sec. 28-253. Action by City Traffic Engineer upon receipt of petition or request seeking determination of preliminary eligibility.

(a) Upon receipt of a petition from the Clerk or a written request from a Councilor, the Traffic Engineer shall determine whether the street is in a category identified in Sec. 28-264 as eligible for traffic calming.

(b) If the street is in a category eligible for traffic calming, pursuant to paragraph (a), the Traffic Engineer shall send a written inquiry to the Chief of Police, the Chief of the Fire Department, the Director of MEDCU, and the Director of Public Works asking whether there are public safety or convenience factors which render the petitioned street inappropriate for traffic calming.

(c) The Traffic Engineer shall make a determination as to whether the street is eligible for traffic calming. As part of the analysis, the Traffic Engineer shall consider the speed, volume, and accident history of the street. A street shall be deemed eligible for traffic calming if it is in a category for which traffic calming is appropriate as identified in Sec. 28-265 and the designated departments conclude that traffic calming could take place in a manner consistent with public safety and convenience.

(d) The Traffic Engineer shall notify the petitioners in writing sent by regular mail, whether the street is eligible or ineligible for traffic calming within forty-five (45) days of receiving the petition from the City Clerk. If the street is ineligible, the decision must state the reasons for the determination. A copy of such notice shall be provided to each Councilor residing within the district where the street is located. (Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-254. Appeal of decision of ineligibility following petition for determination of preliminary eligibility.

(a) If the determination by the Traffic Engineer under Section 28-253(c) is that the street is ineligible because the street is not in a category that is eligible for traffic calming, the determination may not be appealed.

(b) If the street is determined ineligible by the Traffic Engineer under section 28-253(c) due to public safety or convenience factors identified by one or more of the officials

designated to review the petition, the petitioners may appeal the decision to the City Manager or designee within twenty (20) days of the date upon which the decision is mailed to the petitioners under section 28-253(d). Any such appeal must be in writing and must state the grounds upon which the appealing petitioners disagree with the public safety or convenience determination. The City Manager or designee shall hold a hearing within ten (10) business days of receiving the written appeal and shall issue a written decision within twenty (20) days of the hearing unless either time period is extended by agreement. In the event the City Manager or designee overturns a decision on ineligibility for traffic calming, a street shall be deemed eligible for traffic calming. The decision of the Manager or the Manager's designee may not be appealed to court.

For the purpose of this ordinance, "convenience factors" means factors that would adversely affect the ability of the traveling public to use a street, would interfere with construction or maintenance activities on the street, or would divert an unreasonable amount of traffic to other streets.
(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-255. Development of traffic calming plan.

Within forty-five (45) days after a final determination that a petitioned street is eligible for traffic calming, the Traffic Engineer will develop a proposed traffic calming plan for the particular street which may integrate several traffic calming methods and options as set forth in section 28-265(b). In developing a plan, the Traffic Engineer shall consider the potential for traffic diversion and other possible impacts on the broader neighborhood in which the street is located, as well as other related public safety and convenience factors that may result from particular traffic calming measures. The Traffic Engineer will submit the proposed traffic calming plan and any options in writing to the Director of Public Works, and any Councilor residing in the district of such street, for review and comment prior to issuing a final traffic calming plan.
(Ord. No. 198-03/04, 6-7-04)

Sec. 28-256. Neighborhood Meeting

The Traffic Engineer will hold a public hearing in or near the neighborhood affected by the proposed traffic calming plan within forty (40) days after issuing the proposed plan. Notice of the hearing shall be published in a newspaper having general

circulation in the City at least ten (10) business days prior to the hearing. In addition, a notice of the hearing shall be mailed by regular mail to each petitioner, to the head of all residential households, and businesses on the petitioned street and within five hundred (500) feet of the petitioned street and to the president or designated representative of any area Neighborhood Association. The failure of an individual or entity to receive the notice of Public Hearing shall have no effect on the process or decision on traffic calming. At the meeting the Traffic Engineer will explain the proposed plan and options and take a vote on them of those in attendance who claim to be age 18 or older and who reside or who have a business on the petitioned street and announce the results. The results shall be advisory only to the Traffic Engineer. Following the meeting, the Traffic Engineer will issue a final plan within thirty (30) days and mail a copy by certified mail return receipt requested to the petitioners, the City Manager, and to any Councilor residing in the district where the street is located. (Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-257. Petition approving traffic calming plan.

(a) In all zones except the R-4 and R-6 zones, following receipt from the Traffic Engineer of a final traffic calming plan, the plan shall be classified as approved if a petition accepting the plan is filed with the City Clerk containing a number of signatures of residents and business owners on the petitioned street who are eighteen (18) years of age or older equal to or exceeding sixty percent (60%) of the base number applicable to that zone.

(b) In the R-4 and R-6 zones, following receipt from the Traffic Engineer of a final traffic calming plan, the plan shall be classified as approved if a petition accepting the plan is filed with the City Clerk containing a number of signatures and residents and business owners on the petitioned street who are eighteen (18) years of age or older equal to or exceeding fifty one percent (51%) of the base number applicable to that zone.

(c) The petition process in (a) or (b) must be initiated within ninety (90) days of the date of mailing of the traffic calming plan.

(d) The petitioners shall follow the process established in Section 9-36(c) of this Code and the Clerk shall provide the petitioners with appropriate petition forms pursuant to that Section except that the Clerk shall have twenty (20) days to

prepare the petition forms to be circulated. Prior to providing the forms the Clerk shall verify the number of dwelling units on the street and the base number for the purpose of establishing the number of signatures needed for a petition. The Clerk shall inform the Petitioners' Committee in writing of both numbers. In all zones except the R-4 and R-6 zones, the base number shall equal the number of dwelling units multiplied by one and one-half (1.5). In the R-4 and R-6 zones, the base number shall equal the number of dwelling units multiplied by one. The one and one-half (1.5) multiplier shall apply to any traffic calming petitions with a filing deadline on or after May 1, 2003.

(e) The petition shall be circulated, filed and processed pursuant to Section 9-36(c) and (d) except that the petitioners shall have 120 calendar days to circulate the petition and file it.

(f) The petition shall be verified pursuant to the process in Section 9-36(e) with the additional requirement that the Clerk's Certificate of Sufficiency shall be sent to the City Traffic Engineer as well as to the City Council. In verifying the petition the Clerk shall only have to verify that it contains the necessary number of signatures and is timely filed.

(Ord. No. 234-99, 3-29-99; Ord. No. 21 03/04, 7-21-03; Ord. No. 198-03/04, 6-7-04)

Sec. 28-258. Financing traffic calming plans.

(a) Approved traffic calming plans under section 28-257 shall be submitted to the City Council for financing in accordance with subsections (b) and (c).

(b) The cost of traffic calming plans approved by petitioners shall be included by the Director of Public Works with the Department's annual CIP budget requests in the same manner that funding is requested for sidewalk work.

(c) In its preparation of the annual City budget and Capital Improvement Program, the City Council may provide such funding for traffic calming projects as it deems appropriate. Funds allocated for traffic calming shall be disbursed on a District basis in the same manner that sidewalk funds are disbursed.

(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-259. Elimination or modification of traffic calming plan.

(a) After six (6) months from the date on which a traffic

calming plan was installed or implemented, any ten or more residents or business owners on a specific City street or a City Councilor may file a written petition or request to eliminate or modify the traffic calming plan with the City Clerk. The petition or request shall meet the requirements of Sec. 28-252.

(b) If at any time following the installation of a traffic calming plan the Public Works Director or the Director's designee determines that such measure is creating a hazard to public health and safety, the Public Works Director may take immediate steps to remove or modify a traffic calming plan accordingly. There is no right to appeal such a determination; however, further modifications to a traffic calming plan on such affected street may be undertaken as provided in section 28-258.

(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-260. Process following filing of petition or request for elimination or modification of a traffic calming plan.

(a) Following receipt of a petition or a written request from a councilor for the elimination or modification of a traffic calming plan that has been forwarded by the Clerk, the Traffic Engineer will call and conduct a neighborhood meeting on that issue pursuant to Sec. 28-256.

(b) Following the neighborhood meeting, the Traffic Engineer will issue a written decision regarding the elimination or modification of a traffic calming plan and file it with the Clerk who shall forward copies forthwith to the petitioners and each member of the City Council.

(c) If the decision of the Traffic Engineer calls for the elimination or modification of the traffic calming plan, the decision shall go into effect if a petition is filed and certified following the process established in §28-257, that supports the decision and that contains the signatures of fifty one percent (51%) or more of the residents and business owners on the same street that was the subject of the traffic calming plan, regardless of the zone where the street is located.

(d) If the decision of the Traffic Engineer is to leave the traffic calming plan in place, the decision may be appealed by the petitioners or any ten residents or business owners, age eighteen (18) or over, who reside or have a business on the petitioned street pursuant to Sec. 28-257. If the appeal is successful, the appellants must follow the petition process in (c) above in order

to eliminate or modify the traffic calming plan.
(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-261. Funding for elimination or modification of traffic calming plans.

Funding for the elimination of traffic calming plans shall be done in accordance with Sec. 28-258.
(Ord. No. 234-99, 3-29-99)

Sec. 28-262. Installation of traffic calming devices.

(a) The physical installation of traffic calming devices shall be consistent with the traffic calming plan approved by the Traffic Engineer. The associated traffic control devices must conform to design standards established by the Traffic Engineering Department.
(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-263. Limitation on petitions or requests.

The same street or one that is substantially the same may not be the subject of a petition or request for a traffic calming plan for a period of two (2) years from the date of a final decision rejecting or denying a plan pursuant to Sec. 28-253. If a plan is implemented, a petition or request to eliminate or modify it cannot be initiated for six (6) months from the date on which the plan is in place. If a plan is eliminated, a petition or request to implement a plan cannot be initiated for two (2) years from the date on which the elimination was complete.
(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-264. Street categories for determining preliminary eligibility.

- (a) Streets eligible for traffic calming.
- (1) Principal arterials, minor arterials and collector streets as defined in the Federal Classification system and shown on a map on file in the Clerk's Office and the Public Works Office.
 - (2) Local streets: a street that is in a zone that permits residential dwelling units and on which seventy five (75%) percent or more of the abutting properties have residential structures.

(b) Streets not eligible for traffic calming.

(1) Limited access freeways and expressways that are part of an Interstate System as defined in the Federal Classification System.

(2) Streets that score less than 200 points on the threshold eligibility table in Sec. 28-265(a).

(Ord. No. 234-99, 3-29-99)

Sec. 28-265. Tables.

(a) Thresholds for traffic calming plan.

Threshold	Criteria	Max. Pts.
Volume	Vehicles per day X .05	100 pts.
Speed Warrant	(85 th percentile speed- Posted Speed Limit)	100 pts.
Children	1 pt./child for each child less than 12 years of age living on street (75 max.) 25 pts. For school on the street	100 pts.
Heavy Vehicles (HVPD)	2 pts. For each heavy vehicle defined as 2 axle-6 tire and larger. Applicable only to residential streets	100 pts.
Residential Density	75% - 25 pts. 80% - 30 pts. 85% - 35 pts. 90% - 40 pts. 95% - 45 pts. 100% - 50 pts.	50 pts.
	Total Points (max.)	

Minimum of 200 pts. Required to qualify for traffic calming.

(b) Guidelines for use of traffic calming devices.

Type of Road	Description of Problem	Potential Solution (In Order of Preference)
Local/collector	Speed	Review speed limit
		Review or modify stop sign locations

		Check warrants for traffic signals
		Neighborhood watch
		Road humps
		Speed tables
		Colored paving/textured paving
		Raised intersections
		Medians
		Curb extensions or vegetation
		Traffic circle/roundabout
	Cut-through traffic	Review or modify stop sign locations
		One way streets
		Road humps
		Speed tables
	Pedestrian Safety	Turn or entry prohibited
		Check warrants for traffic signals
		Colored and textured paving
		Barrels
		Raised crosswalk
		Curb extensions
Medians		
Raised intersection		
One way street		
Traffic circles/roundabout		
Turn or entry prohibited		
Arterial	Speed	Review Speed limit
		Review or modify stop sign locations
		Check warrants for traffic signals
		Medians, curb extensions, or vegetation
	Cut-through traffic	Review or modify stop sign locations
		One way streets
		Turn or entry prohibited
	Pedestrian safety	Check warrants for traffic signals

		Barrels
		Medians
		One way streets

(Ord. No. 234-99, 3-29-99; Ord. No. 198-03/04, 6-7-04)

Sec. 28-266. Applicability.

This Ordinance shall not apply to any traffic calming projects implemented before the effective date of this Ordinance.

(Ord. No. 234-99, 3-29-99)

Sec. 28-267. Reserved.

Sec. 28-268. Reserved.

Sec. 28-269. Reserved.

ARTICLE VII - VALET PARKING

Sec. 28-270. Purpose; permit and license required.

(a) The purpose of this article is to:

- (1) Reduce the disruption of vehicular and pedestrian traffic that valet parking service operations may create;
- (2) Minimize hazardous conditions that valet parking service operations may create in order to protect the health, safety and welfare of the public; and
- (3) Promote the safe and legal operation of valet parking services for the use and convenience of businesses and the general public.

(b) No person, establishment or entity shall conduct valet parking service within the City of Portland without first obtaining a permit from the Department of Permitting and Inspections office and paying the fee therefor.

(c) This article shall not apply to any hotel located within the City of Portland.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-271. Definitions.

Terms used in this article shall have their common meanings

except that, the definitions used in this Article or in chapters or articles related to this Article shall have the following meanings:

Disqualifying criminal conviction means and includes any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted.

Permit means the receipt of a valet parking permit under the terms and provisions of this Article.

Valet parking permit means the permit issued by the Department of Permitting and Inspections office to the valet permit operator allowing it to conduct a valet parking operation in an approved valet parking zone.

Valet parking operator means a company/entity that is engaged to operate a valet parking service.

Valet parking zone means the portion of a roadway adjacent to a curb indicated by regulatory signs and meeting the requirements set forth in the Valet Parking Rules and Regulations and this ordinance.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-272. Applications.

Applications under this division except for a one-day special event permit, shall be filed thirty (30) days in advance of issuance of a permit in the Department of Permitting and Inspections office. Such application shall include the following information:

- (1) Name and address of the proposed permittee/operator.
If incorporated, permittee/operator must provide copies of their articles of incorporation and bylaws.
- (2) If the permittee/operator is other than a natural person, the names of all principal officers shall accompany the application.
- (3) Copy of current liability insurance for the

applicant/permittee in accordance with the provisions of Section 28-275 of this code.

- (4) A plan (at an appropriate scale), identifying the valet parking service area, the proposed location, number of parking stalls and distance to the parking spaces for the valet parking service. This plan will be reviewed and approved by the city's Transportation Systems Engineer, who has the right to designate valet parking zones based upon local conditions such as traffic congestion, the demand for valet parking zones or the overall impact of valet operations in a particular area and whose decision shall be final.
- (5) An appropriate form of statement over the signature of each person signing the application, giving all persons and governmental agencies having information relevant to the above items permission to release the same to the Department of Permitting and Inspections.
- (6) State whether any driver's license held by the applicant is presently revoked or has been revoked during the three (3) years preceding the application and the reasons for such revocation or revocations.
- (7) Any application for a license for which a criminal conviction is a disqualification under this Article shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the state Criminal History Records Act (16 M.R.S.A. § 611, et seq.).
- (8) Copy of valid certificate of use or agreement for use of off-street parking area that will be used for the parking of automobiles. If the agreement is terminated then the city is to be notified.
- (9) Applications shall be forwarded by the Department of Permitting and Inspections office to all city departments which may be affected by the granting of the permit, including but not limited to, public works, planning, police and parking.

(Ord. No. 234-12/13, 6-3-13; Ord. 108-15/16, 11-16-2015; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-273. Fees; exceptions.

(a) *Issuance fees.* Applications for yearly valet permits shall be accompanied by an annual nonrefundable fee of two hundred and seventy-three dollars (\$273.00) per location. Each location shall only include two (2) parking spaces approved by the Transportation Systems Engineer, whose decision shall be final.

(b) *Special event fee.* Application for a special event permit shall be accompanied by a nonrefundable fee of sixty-four dollars (\$64.00) provided that the Department of Permitting and Inspections has received ten (10) days' notice prior to such event.

(c) *Application fees.* Except as expressly provided, all applications for original permits, shall be accompanied by an issuance fee and an administrative fee of thirty-five dollars (\$35.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administration fee of twenty-five dollars (\$25.00). The latter fee shall be refundable if the application is denied.

(d) *Late fees.* An additional fee of ten dollars (\$10.00) shall be charged for issuance of any permit after expiration of the prior permit.
(Ord. No. 234-12/13, 6-3-13; Ord. 248-14/15, 6-24-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 218-17/18, 7-1-2018)

Sec. 28-274. Severability.

The provisions of section 1-14 of the Portland City Code shall apply to this article.
(Ord. No. 234-12/13, 6-3-13)

Sec. 28-275. Required.

(a) *Driver's license.* No person shall valet park a vehicle within the city unless such valet driver is currently licensed to operate a vehicle.

(b) *Permits non-transferable.* Permits issued hereunder are not transferable.

(c) *Insurance.* The applicant must file with the Department

of Permitting and Inspections office a copy of the applicant's insurance certificate evidencing public liability insurance coverage and automobile insurance coverage in amounts not less than Four Hundred Thousand Dollars (\$400,000) combined single limit, or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time, covering claims for bodily injury, death and property damage, and naming the City as an additional insured, and also provide worker's compensation insurance coverage as required by law.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-276. Standards and criteria for application review.

The standards and criteria used in reviewing the application required in section 28-273 shall be in accordance with the Valet Parking Rules and Regulations on file with the Department of Permitting and Inspections.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-277. Form and conditions of permit.

- (1) Each permit shall be effective for one (1) calendar year, subject to annual renewal. Any renewal of a permit shall require payment of all applicable fees and compliance with all requirements for permits in the same manner as an original application.
- (2) The permit issued shall be personal to the permittee only and shall not be transferable.
- (3) The Transportation Systems Engineer may require the temporary removal or relocation of valet parking service when street, sidewalk, or utility repairs necessitate such action.
- (4) The Fire Department or Police Department may immediately remove or relocate all or parts of the valet parking service in emergency situations. Officers of the Police Department, or such special officers as are assigned by the Chief of Police or Fire Chief are hereby authorized to direct traffic, including drop-off and pick-up vehicles, as conditions may require, notwithstanding the provisions of this chapter or other applicable traffic ordinances.
- (5) Under no circumstances shall the city, its offices or

employees, be deemed responsible or liable in any way for any damage or loss resulting from the removal of the permittee/operator equipment and other objects necessary for the operation of the valet parking service during emergencies. Furthermore, the permittee/operator agrees and acknowledges by accepting a permit issued pursuant to this article that the city, its officers or employees are to be held harmless in connection with its actions.

- (6) The permit shall be specifically limited to the area shown on the approved plan attached to and made part of the permit. If the permit holder is found to be outside of the designated area, permit holder shall be subject to their permit being revoked or suspended.
- (7) The permittee/operator shall use positive action to assure that its use of the sidewalk in no way interferes with sidewalk users or limits their free unobstructed passage by leaving a clear space of four (4) feet.
- (8) Mobile stands, tables, chairs, umbrellas, key boxes and any other objects necessary for the operation of the valet parking service shall be maintained with a clean and attractive appearance and shall be in good repair at all times and removed at the close of business each day.
- (9) The sidewalk area covered by the permit shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day.

(Ord. No. 234-12/13, 6-3-13)

Sec. 28-278. Valet permittee/operators code of conduct; required customer protection regulations.

Permittees/operators shall require their employees and independent contractors to meet the following requirements:

- (1) All employees who operate motor vehicles shall have in their possession a valid driver's license in good standing.
- (2) All employees shall wear a name tag identifying the employee's name and the name of the valet

operator/company.

- (3) All employees must comply with the requirements of this article and all applicable laws, statutes, ordinances, rules and regulations relating to traffic safety.
- (4) The claim ticket shall identify the valet operator's company name, correspondence address, phone number and e-mail address for questions/complaints. All of the foregoing print shall be of equal size.
- (5) Pricing for services shall be identified on any "signage" used by the valet operator.
- (6) The permittee/operator shall have available on-site for display upon request a valid valet parking permit issued pursuant to this article.

(Ord. No. 234-12/13, 6-3-13)

Sec. 28-279. Operational regulations and restrictions for valet parking service.

(1) The public on-street/curbside parking spaces, metered or non-metered, shall only be used for allowing the customer to enter or exit a vehicle and to turn it over to or retrieve it from a valet parking operator employee. There shall be no storage of vehicles in the valet parking service area. A vehicle will be considered stored if it remains in the valet parking service area for more than ten (10) minutes.

(2) The permittee/operator shall possess a valid driver's license and permit to operate the valet parking service within the City.

(3) The permittee/operator shall maintain key control and a 24 hour phone number for after-hours vehicle pick up information.

(4) The permittee/operator shall not load or unload passengers within traffic lanes that are open to through traffic.

(5) The valet parking service area shall not interfere with the regular flow of vehicular or pedestrian traffic. No double parking shall be allowed.

- (6) All unclaimed vehicles shall be reported to the police

department after forty-eight (48) hours.

(7) If the operation of the valet parking service requires the use of metered parking spaces, timed zones, or commercial vehicle loading zones, the permittee/operator shall only be entitled to use such spaces between the hours of 6:00 p.m. - 2:00 a.m.

(8) Vehicles that are parked shall be transported to and parked at a designated off-street parking facility and shall not be parked in the valet parking zone or in any other on-street parking spaces.

(9) No signs shall be permitted on the sidewalk or in the public right-of-way without a permit from the Building Authority pursuant to Sec. 25-27 of the Portland City Code. Each sign must be in accordance with the valet parking rules and regulations and only city installed and regulated signs are allowed on city sign posts.

(10) No mobile stands, tables, chairs, umbrellas, key boxes nor any other objects necessary for the operation of the valet parking service shall be attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.

(11) No signs or cones shall be allowed in the travel lane.
(Ord. No. 234-12/13, 6-3-13)

Sec. 28-280. Denial, revocation, or suspension of permit; removal of equipment or personal property of the permittee/operator and storage fees.

(a) The Department of Permitting and Inspections may deny, revoke, or suspend a permit for any valet parking service authorized in the City if it is found that:

- (1) The permittee/operator has not maintained required insurance;
- (2) The permittee/operator has failed to show proof of a valid driver's license;
- (3) The traffic systems engineer determines that the operation of a valet parking service causes congestion; interferes with pedestrian or vehicular traffic;

interferes with the use of any pole, sign, fire hydrant, traffic signal or other object already permitted at or near the valet parking service area; or otherwise is not in the public interest; or

- (4) The permittee/operator has failed to correct violations of this article or conditions of the permit within (3) three days of notice of the violations;
- (5) If permittee/operator is found in violation of the same offense two (2) times within a permit period; and
- (6) The permittee/operator made any false statements or omission of material fact on the application, site plan or elsewhere in connection with securing a permit.

(b) Stands, tables, chairs, umbrellas, key boxes and other objects necessary for the operation of the valet parking service may be removed by the City, and a reasonable fee charged for labor, transportation, and storage, should the permittee/operator fail to remove said items at the close of business on a daily basis.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-281. Appeals of permit denial or revocation.

(a) *Procedure.* An appeal to the City Manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Department of Permitting and Inspections by filing a notice of appeal within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. The City Manager or his or her designee shall hear the appeal and may affirm, reverse or modify the decision appealed from.

(b) *Appeal to the Superior Court.* Any person aggrieved by a decision of the City Manager or his or her designee may appeal therefrom to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

(Ord. No. 234-12/13, 6-3-13; Ord. No. 165-15/16, 3-7-2016)

Sec. 28-282. Enforcement; fine schedule and penalty provisions.

(a) *Enforcement.* The City's Parking Division office and/or Police Department may enforce the provisions of this article.

This, however, shall not preclude other law enforcement agencies or regulatory bodies from any action necessary to ensure compliance with this article and all other applicable laws.

(b) *Penalties.* The following civil penalties may be imposed for each violation: One Hundred Dollars (\$100.00) for the first violation; one hundred and fifty dollars for the second violation (\$150.00) and two hundred and fifty dollars (\$250.00) for the third violation.

(Ord. No. 234-12/13, 6-3-13)

Sec. 28-283 Special Events.

Valet services operating for a special event may apply for a permit at the Department of Permitting and Inspections as long as it does not reduce the number of parking spaces needed to serve the general public in the area of the request.

Special events shall be restricted to any event occurring no more than twice per year. The hours for parking of vehicles shall be approved by the City. A special event application shall be filed with the Department of Permitting and Inspections at least ten (10) days prior to the scheduled event.

(Ord. No. 234-12/13, 6-3-13)

ARTICLE VIII - LICENSING OF BOOTING OF MOTOR VEHICLES

Sec. 28-284. Purpose; permit and license required.

(a) The purpose of this article is to:

1. Regulate the imposition of a vehicle disabling device known as a boot and the imposition of a punitive fine by private parking lot business in order to protect the health, safety and welfare of the public; and
2. Promote the safe and legal operation of private parking lots for the use and convenience of businesses and the general public; and
3. Ensure by licensing the regulation of persons engaged in the business of providing private parking spaces, to regulate the disposition of vehicles that are disabled, and to set licensing

fees and penalties for the enforcement thereof.

(b) No person, establishment or entity shall be permitted to disable vehicles by means of a boot in the course of operating a private parking lot within the City of Portland without first obtaining a license from the city and paying a \$100.00 fee therefor.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-285. Definitions

Boot or Booting means the act of placing on a parked motor vehicle any mechanical device that is designed to be attached to a wheel or tire or other part of such vehicle so as to prohibit the vehicle's usual manner of movement.

Private parking lot means an area reserved for parking motor vehicles that is under the ownership or control of a private parking lot company/operator/owner.

Private parking lot company/operator/owner means a business entity or individual engaged in the business of providing parking in a private parking lot.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-286. Exemptions

The requirements of this article shall not apply to the booting of a motor vehicle by the City of Portland and its representatives, when booting of a motor vehicle by the City of Portland and its representatives is authorized by the Portland City Code.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-287. General provisions to apply.

Except to the extent that this article contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions herein, including application, licensing authority, license fee, standards for denial, suspension or revocation, appeal of denial, noticing of hearings and transferability of license.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-288. Application.

An application for, and, if requested, renewal of, a regulated business license to engage in the business of booting of motor vehicles shall be accompanied by the following

information:

(a) Proof of commercial general liability insurance, as required under section 28-288; and

(b) A statement as to whether, within three years of the date of application or renewal, (i) the applicant, or (ii) any employee or agent of the applicant who physically installs or removes booting devices or receives payment for removing booting devices, has ever been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-289. Grounds for denial, revocation or suspension.

In addition to the grounds for revocation, suspension or denial found in chapter 15, a license issued under this article may be suspended or revoked or denied by the city upon a determination that the private parking lot company licensee, or applicant, or private parking lot company/operator/owner, hereinafter "license holder":

(a) Violated any of the requirements or regulations established herein or by the City Manager or his or her designee under this article;

(b) Has been given a disqualifying criminal conviction at any time during the three (3) years immediately preceding application; or has been imprisoned at any time during said period for a disqualifying criminal conviction; provided that said conviction was for an offense which is rationally related to the purpose of providing private parking;

(c) Has not maintained required insurance;

(d) Has failed to show proof of a valid driver's license;

(e) Has failed to correct violations of this article or conditions of the license within (3) three days of notice of the violations;

(f) Is found in violation of the same offense two (2) times within a permit period; or

(g) Made any false statement or omission of material fact on the application, site plan or elsewhere in connection with securing a permit.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-290. Legal Duties

Each licensee engaged in the business of booting of motor vehicles on a private parking lot shall have a duty to:

(a) Maintain in full force and effect at all times throughout the duration of the license period commercial general liability insurance, with limits of not less than \$500,000.00 per person and not less than \$1,000,000.00 per incident, arising in any way from the issuance of a license. The policy of insurance required under this subsection shall:

1. Be issued by an insurer authorized to insure in the State of Maine; and
2. Include a provision requiring 30 days' advance notice to the City of Portland prior to cancellation or lapse of the policy. A copy of such certificate of insurance shall be kept on the licensed premises, and, upon request by any authorized city official, shall be made available for inspection by such authorized city official; and

(b) Conduct booting operations exclusively on a private parking lot and only pursuant to a written agreement with the owner, operator and/or manager of the property;

(c) Post at private parking lots with twenty (20) to fifty (50) or less parking spaces in the lot, while the lots are in operation, a minimum of three (3) red signs, no smaller than 48 inches in height and 30 inches in width, with one at the entrance, one at the exit and one at the payment device, and if there are multiple entrances or exits, then signs shall be posted at each entrance or exit location. One additional sign, conspicuously posted, shall be required for each additional 50 spaces or part thereof. Private parking lots with less than 20 spaces will require review by the City and be required to post signs as determined by the City Manager or his or her designee. The signs shall have prominent white block lettering and shall set forth in the following order:

1. That the private parking lot is not a municipal parking lot;

2. That payment is required for parking in the private parking lot;
3. That a motor vehicle can be booted and the reasons therefor (i.e. lack of payment or overtime parking);
4. The fee for removal of a boot; and
5. The name, address and a 24-hour telephone number for the licensee and property owner or manager; and

All signs shall be reviewed and approved by the City Manager or his or her designee prior to installation; and

(d) Include on each and every booted vehicle:

1. The fee for removal of a boot;
2. The name, address and a 24-hour telephone number for the licensee and property owner or manager and a description of how the boot will be removed;
3. A statement notifying consumers of their rights under this article; and
4. The date and time the boot was placed on the vehicle; and

(e) Maintain sufficient copies of this article for distribution to any person requesting a copy of this ordinance;

(f) Immediately remove a boot from any motor vehicle, at no charge, if the owner of the motor vehicle returns prior to complete attachment of the boot;

(g) Remove a boot within thirty (30) minutes of receiving contact (i.e. a telephone call, etc.) from the owner or operator of a booted vehicle;

(h) Have available means of collecting any fees, via cash and/or credit card, at each and every location where a

booting operation is conducted; and

(i) For every vehicle from which a boot has been released, a receipt shall be given indicating the following:

1. The date and time the boot was placed on the motor vehicle, and the reason therefor;
2. The date and time the owner returned to the vehicle;
3. The date and time the boot was removed from the vehicle;
4. The name of the person who installed and removed the boot; and
5. A reference to the licensee's dispute resolution policy; and

The licensee shall keep on file, for a period of at least three (3) years from the date of its issuance, a copy of all of the receipts required to be provided under this paragraph and, upon request by any authorized city official, shall make a copy of such receipt(s) available for inspection by such authorized city official; and

(j) Establish a written dispute resolution policy for all contested booting charges;

(k) Refund the fee for the removal of a boot, to the customer who paid it, for any vehicle from which a boot has been released if, upon the City's investigation of a complaint to the City, the license holder is determined to have booted the vehicle in violation of this article; and

(k) Maintain at the license holder's place of business minimum business hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

(Ord. 109-15/16, 11-16-2015)

Sec. 28-291. Prohibited Acts

It shall be unlawful for any licensee engaged in the

business of booting motor vehicles to place a boot upon any occupied motor vehicle or upon any motor vehicle parked in accordance with the terms of use of the subject property.
(Ord. 109-15/16, 11-16-2015)

Sec. 28-292. Regulations May Be Promulgated by City Manager

The City Manager or his or her designee shall be responsible for the supervision of all matters relating to private parking lot companies in the city and may promulgate, and from time to time amend, rules and regulations for the guidance, government, and conduct of private parking lot company operations.
(Ord. 109-15/16, 11-16-2015)

Sec. 28-293. Violations/Enforcement

In addition to any other penalty provided by law, under this Article in the City Code or Maine law, any person who violates any provision of this Article or any rule or regulation promulgated thereunder shall be subject to a fine of not less than \$100 for each first offense and \$500 for every repeated violation. Each day that a violation continues shall constitute a separate and distinct offense.
(Ord. 109-15/16, 11-16-2015)